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ABSTRACT

State-by-state public policy profiles are provided by the Council for Exceptional Children's State-Federal Information Clearinghouse. These profiles summarize the present legal base for the delivery of educational services to handicapped children in the United States. Included in each profile is information from varicus avenues used to establish and change state policy, such as legislative statutes, court cases, administrative regulations, and the opinions of state attorneys general. Material in each profile has been organized into the following 11 categories: right to education; population; identification, assessment and placement; administrative responsibility; finance; administrative structure and organization; services; private schools and organizations; personnel; and facilities. (LH)

The production of this profile summarizing the present legal base for the delivery of educational services to handicapped children in your state represents the culminating activity of The Council for Exceptional Children's State-Federal Information Clearinghouse for Children. For the past four years that project has been collecting and producing information about the relationship between state government and the education of handicapped children.

Included in the profile is information from each of the avenues used to establish and change state governmental policy regarding the education of handicapped children. These avenues include statutory law derived through legislative activity, case law achieved through the courts, administrative regulations written by administering agencies to implement law, and attorney's general opinions, issued by state attorneys general interpreting the law.

Since the full text of all this policy encompasses a voluminous amount of material, it has been synthesized for presentation by the State-Federal Information Clearinghouse for Exceptional Children. All of the information has been organized in the following 11 categories: Right to an Education, Population, Identification Assessment and Placement, Administrative Responsibility, Planning, Finance, Administrative Structure and Organization, Services, Private, Personnel and Facilities. These categories were originally used in *State Law and Education of Handicapped Children: Issues and Recommendations*[1] and the "Model" state special education statutes contined in that book.

It was the intent of the project staff to produce a profile for every state to serve as a starting point for persons interested in examining and ultimately improving state provisions for the education of handicapped children. The profiles can be used to compare states with each other, to compare a state against models such as the CEC Model Statutes or the American Speech and Hearing Association's[2] Model regulations, or to serve as a base from which to measure change over time. Additionally, access to the profiles of all the states can lead to many different kinds of analyses and to the production of more comprehensive state reports.

Regardless of the purpose for which they are used, the staff of the State-Federal Information Clearinghouse for Exceptional Children hopes that the profiles will contribute to improving educational services to the nation's handicapped children.

As a final word, we must advocate a certain amount of caution in using this material since it, like the special education field, is in a constant state of change. The user would be wise to check the currency of the material prior to the completion of substantive work based on the information.

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[1] Weintraub, F. J., Abeson, A. R., Braddock, D., State Law and the Education of Handicapped Children: Issues and Recommendations. The Council for Exceptional Children, 1971

[2] American Speech and Hearing Manual on State Licensure of Pathologists and Audiologists, 1973.

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STATE PROFILE

ALABAMA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The Legislature shall establish, organize, and maintain a liberal system of public schools throughout the state for the benefit of the children thereof between the ages of seven and 21 years. . ." **(Art. XIV, Sec. 256, Ala. Const.) (L)**

Compulsory Attendance Law: A child whose physical or mental condition prevents or renders inadvisable attendance at school or application to study (and who has a certificate of exemption by the county superintendent of education if he resides in a district under the supervision of a city board) is exempt from the compulsory attendance requirements. Before an exemption certificate is issued, the superintendent must obtain a certificate saying that the child is physically and/or mentally incapacitated for school work. The certificate is signed by the county health officer in counties having a health unit or from a regularly licensed practicing physician in counties not having a health unit. **(Sec. 301 Ala. Stats.) (L)**

POPULATION

Definitions: " 'Exceptional children' means persons between the ages of six and 21 who have been certified under regulations of the state board of education by specialists as being unsuited for enrollment in regular classes of the public schools or who are unable to be educated or trained adequately in such regular programs including but not limited to the mild and moderately to severely retarded, but not including the profoundly retarded; the speech impaired, the deaf and hearing impaired; the blind and vision impaired; the crippled and those having other physical handicaps not otherwise specifically mentioned herein; the emotionally conflicted; the socially maladjusted; those with special learning disabilities; the multiply handicapped, and the intellectually gifted." **(Sec. 1, Act. 106 Laws of 1971) (L)**

"Those children and youth in whom the sense of hearing is so impaired as to preclude learning in the regular classroom are classified as hearing impaired. The inability to communicate is the primary characteristic of a hearing impaired child. Depending on the severity of the hearing loss, the age of on-set, and the innate ability to lipread, there may or may not be any verbalization other than gross sounds. In many instances, the inability to speak is misdiagnosed as mental retardation, therefore much care should be taken in testing these children psychologically. Always request an audiological test on non-verbal or low-verbal children being tested for special education classes. In addition, the inability to communicate often frustrates the severely hearing impaired to such a degree that emotional conflict is very evident." **(R)**

"Speech handicapped children and youth are those in whom speech is so deviant or so far below standard that their social, educational and economical efficiencies are reduced or endangered. The following gives some reasons why children have defective speech:

1. Constitutional factors including dental abnormalities, tongue, palate and other oral irregularities, and auditory factors;
2. Faulty learning: poor speech models and lack of stimulation and motivation;
3. Emotional maladjustment; and
4. Intelligence."

"Speech is defective when it deviates so far from the speech of other people that it calls attention to itself and does not facilitate communication, or does not encourage its possessor to be properly adjusted."

"Speech defects are found in the areas of articulation of speech sounds, in voice factors, in rhythm, and in certain aspects of language." **(R)**

"A defect in the articulation of speech sound may be characterized by omission of a sound, substitution of one sound for another, distortion of a sound and the insertion or addition of sounds in words. While a limited percentage of such speech defects may be due to causes related to anomalies of physical structure, the greater percentage is due to other casual factors, among which are poor speech environment and lack of motivation. Many children have obvious problems for which compensation can be and are made. Conversely, those individuals with no structural difficulties may develop defects of varying degrees of severity."

"Studies indicate that articulation defects form the bulk of the public school clinician's case load."

"Pronounced deviations from usually accepted norms for age and sex may be demonstrated, especially in the voice factors of pitch, quality and volume. The area of voice disorders is one in which a close working relationship with the medical profession is indicated."

"Stuttering is the usual term applied to rhythm disturbances such as repetitions, blocks, and hesitations which are more pronounced than the occasional disturbed rhythm resulting from the lack of vocabulary and excitement. Clinicians often differentiate between the communicative problem of the young child who has developed no negative reactions to repetitions or blocks and the person who is really disturbed by them."

"There are certain definitive developmental norms which examine such factors as patterns of speech sounds, extent of vocabulary, sentence length and adequacy in language structure. In this area the clinician may be dealing with such factors as hearing loss, severe emotional disturbance, brain damage, mental retardation, or pronounced cultural deprivation. In some instances more than one factor may be involved."

Cleft palate may involve the above described problems of articulation and voice quality. It is usually thought of as a separate speech defect area because of the obvious organic involvements which may range from mild to very severe. The problem may be extended over a period of several years of developmental growth.

Age of Eligibility: Children are eligible for special services between the ages of six and 21. **(L)**

The Crippled Children's Service, an agency of the Alabama State Board of Education, is the agency charged with determining whether a child is handicapped. Only those children so classified are eligible for special education service. **(On. Att'y. Gen. Vol. 74 Feb., Mar. 1954)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: Within 120 days after July 22, 1971, all school boards must conduct a thorough survey of persons who, if when certified by specialists, would probably qualify as exceptional children. The survey must indicate each child's name, age, sex, and type of exceptionality. All data descriptive of an individual person, rather than a compilation which does not reveal specific information about a person, will be maintained in strict confidence and unavailable to anyone except the survey takers, appropriate superintendent and staff, the appropriate school principal, the individual child's parent or guardian, and any other person designated in regulations adopted by the state board of education. **(Sec. 4, Act 106, Laws of 1971) (L)**

Screening: The department of education and the state board of health will jointly arrange for examing public school children for mental deficiency and any physical defects (which include diseases of the ear, eye, nose, throat, mouth and teeth, deformity of location of the hip joint, spinal disease, phymosis, hook worm disease, and any communicable or contagious diseases), if a local superintendent has reason to believe that the child has a communicable or contagious disease or any disease requiring medical and/or surgical aid to develop the children into strong and healthy individuals. **(Sec. 553, Ala. Stats.) (L)**

Alabama Boys Industrial School, Alabama State Training School for Girls, the Alabama Institute for Deaf and Blind, department of mental health, state crippled children's services, the state board of health, and department of pensions and securities shall direct their field workers to review the case records on or before March 31 of each year and to report to the superintendent of the local school board the names and other pertinent information of all persons who might, if certified by specialists, be exceptional children in the school district and whose condition, in their opinion, might require special education services. **(Sec. 9, Act 106, Laws of 1971) (L)**

Assessment and Placement: " 'Placement committee' means a committee so designated and appointed by the superintendent for determining the eligibility of exceptional children for placement in special school programs or classes, which committee shall be composed of representatives from the fields of medicine, education, and psychology whenever practicable. Said committee after study of all data available on each exceptional child shall make recommendations concerning each child's admission to a school program or class or withdrawal therefrom."

" 'Specialist' means a physician, psychologist, psychometrist, or other professional personnel qualified pursuant to regulations established hereunder by the state board of education to examine children for purpose of determining whether they are exceptional children." **(Sec. 1, Act 106, Laws of 1971) (L)**

No child shall receive special services unless he is properly classified as an exceptional child. The child's parents or guardian shall be informed of the reasons for this classification, and a copy of the report certifying the child's type of exceptionality will be kept on file in the office of the principal of the school in which the child is enrolled and any other places prescribed by regulation. **(Sec. 9, Act 106, Laws of 1971) (L)**

The school board should utilize regular facilities by adapting them to the needs of exceptional children. No exceptional child will be segregated or taught apart from nonexceptional children until a study of the child's case has been made, with evidence obtained indicating that segregation would be for the exceptional child's benefit or is necessary because of the difficulties involved in teaching the child in a regular classroom. Whenever possible, placement will be on the basis of the placement committee's recommendation. The principal of the school in which an exceptional child is taught will keep a written record of the case history of each exceptional child showing the reason for any withdrawal of a child from the regular school program. This confidential record is kept available for inspection by appropriate school officials and/or faculty at any time with the consent of the principal. **(Sec. 8, Act 106, Laws of 1971) (L)**

The special class teacher and the principal must decide at least annually on continuing each special class placement. Individual intelligence tests must be administered at least every two years to each special class child. Children not benefiting from or who are a detriment to the program may be referred to the placement committee with definite recommendations. **(R)**

In the case of the speech handicapped child, case finding is done by referrals to the clinician or by screening programs carried on by the clinician. The hearing impaired child is eligible for special placement if he is unable to function adequately in a regular classroom. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The state board of education will adopt as soon as possible after July 22, 1971, but in no event more than 120 days later, regulations covering:

1. Qualifications of specialists for each type of exceptionality and standards for certification of exceptional children;
2. Minimum standards of instruction and special services for each type of exceptionality at each age or grade level;
3. Reasonable qualifications for teachers, instructors, therapists, and other personnel needed to work with exceptional children;
4. Guidelines for suitable five-year incremental plans for implementation of the programs for various types of typical situations encountered by school boards, and
5. Any other necessary rules or regulations.

If the regulations of the board are amended, the amendments become effective 90 days after written notice of the amendments has been given to all local boards. **(Sec. 5, Act 106, Laws of 1971) (L)**

The Alabama Institute for the Deaf and Blind is managed and controlled by a board of trustees consisting of the governor, state superintendent of education, and 12 persons appointed by the governor and confirmed by the Senate. **(Sec. 520, Ala. Stats.) (L)**

The State Board of Education and the county or city boards of education have to work together to establish, operate and maintain schools for handicapped children. Neither would have the authority to establish and maintain schools independent of each other. **(Op. Att'y. Gen. Vol. 74, Jan., Feb., Mar. 1954)**

PLANNING

The state board of education was to have adopted in 1971 guidelines of exceptional children for suitable five-year incremental plans for implementation of the programs for various types of typical situations encountered by school boards.

In 1971 each school board was to have conducted a thorough survey of persons who would probably qualify as exceptional children, indicating each child's name, age, sex, and type of exceptionality. Within 120 days after completing the census, each school board was to have adopted an incremental five-year plan, beginning with the September, 1972 school year, which implements a program of appropriate instruction and special services for resident exceptional children including a procedure for obtaining their certification by a specialist.

After adoption, the plan will be submitted to the state board of education for approval or disapproval in accordance with state board regulations. If it is approved, the school board must abide by it. Modifications of the plan must be approved by the state board. If the state board of education disapproves the plan, representatives of the state board will consult with the district in an effort to formulate a plan which can be approved. Plans and/or amendments will be disapproved only because minimum state board standards are not met. Reasons for disapproval must be stated.

If no plan can be agreed upon, the state board shall provide a plan which becomes binding unless the local board files, within 30 days, a suit in the circuit court of Montgomery County to restrain the enforcement of the plan on the grounds that it is arbitrary, impracticable, detrimental to the education of exceptional children, or invalid. Only the specified court will have jurisdiction on these suits. All suits will be given a preferred setting. **(L)**

The state board of education has the primary responsibility for enforcing compliance of the plans. If any local board fails or refuses to carry out its duties, the attorney general when requested by any private citizen shall bring civil suits in Montgomery County to require that such duties be performed. **(L)**

During the fifth year of implementation of the incremental five-year plan, each school board must submit a long-range plan, providing appropriate instruction and special services to exceptional children. Long-range plans are binding unless modified with state board approval. Such plans and modifications must be resubmitted to the state board of education for approval or disapproval at established intervals, but not less than once every seven years or more often than once every two years.

Procedures for approving or disapproving, establishing and/or enforcing long-range plans will be in the same manner as for the incremental five-year plans. The long-range plan must include provisions for: (1) establishment of special education classes, instruction, curricula, facilities, equipment, special services, utilization of teachers and other personnel; (2) attendance requirements for exceptional children; (3) services for exceptional children whose condition will not permit them to profit or benefit from any kind of school program such as day care, recreation programs, and other services and facilities, and (4) payment of tuition and other costs for attendance at appropriate semi-public or private schools or institutions which provide appropriate services for all exceptional children such as the Children's Center in Montgomery and the Opportunity Center School in Birmingham. **(L)**

FINANCE

Required public school instruction and special services for exceptional children shall be made available at public expense for each school year. The funds for such instruction and special services are derived from state, county, municipal, district, federal, or other sources or any combination of sources. All school boards are required to set aside from their revenues from all sources amounts necessary to provide special services for exceptional children. If sufficient funds are available to school boards to fully provide for exceptional children as well as to provide for educational needs of nonexceptional children, the board must prorate all funds on a per capita basis between exceptional and nonexceptional children. No matriculation, tuition, or other fees or charges will be required or asked for exceptional children or their parents or guardians, unless such fees or charges are made uniformly for all public school pupils. **(Sec. 3, Act 106, Laws of 1971) (L)**

Teacher units will be allocated on the following basis:

1. For each group of between eight and 15 exceptional children who are taught by a properly qualified full-time teacher in a special class or who are taught individually as homebound or hospitalized children unable to attend school for the major portion of the year, one teacher unit shall be allowed. The minimum number of pupils may be reduced to five if instruction of a larger number would not be feasible or practicable. One-fifth of a unit may be authorized for each exceptional child taught in communities where fewer than five exceptional children are in need of special instruction;
2. For each qualified member of the instructional staff devoting full time to the instruction of exceptional children in regular or special school programs, one teacher per unit will be allowed;
3. For instructional services provided by a qualified teacher or teachers of exceptional children who are unable to attend school because they are homebound or hospitalized, one teacher unit is allowed for each 900 instruction hours. A proportionate part of one unit will be allowed for less than 900 hours; and
4. Upon conclusion of the five-year plan, the state school board shall allocate teacher units to public state institutions providing residential care for exceptional children in the same manner as those provided for public school to the extent that appropriations for teacher units are not otherwise provided for by law. **(Sec. 7, Act 106, Laws of 1971) (L)**

As authorized by regulations of the state board, districts may receive, in lieu of the amount calculated on the basis of daily attendance and otherwise authorized by law, 80 percent of the cost of transportation for each bus used exclusively for the purpose of transporting eight or more exceptional children unable to ride regular buses. A proportionate amount will be allowed for a vehicle used exclusively for transporting a smaller number of exceptional children (less than eight) to and from school. **(Sec. 11, Act 106, Laws of 1971) (L)**

The State of Alabama, through its General and Local Acts of 1951 and 1953, establishes that $50,000 be appropriated by the State for Education of handicapped children. A maximum of $500 can be spent on each child. Lesser amounts were acceptable, and the State is not required to spend the entire $50,000. **(Op. Att'y. Gen. Vol. 74, Jan., Feb., Mar. 1954)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Districts may jointly provide services to exceptional children. **(L)**

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SERVICES

" 'Special services' means services relating to instruction of exceptional children (but not including the instruction itself) including, but not limited to: administrative services; transportation; diagnostic evaluation services; social services; physical and occupational therapy; job placement; orientation and mobility training; braillist services and materials; typists and readers for the blind; special materials and equipment; and such other similar personnel, services, materials, and equipment as may from time to time be approved by regulations adopted hereunder by the state board of education. **(Sec. 1, Act 106, Laws of 1971) (L)**

The state superintendent of education is authorized to purchase and arrange for distribution to school boards previously adapted text books, equipment, and materials prepared in various resource and media centers for the use of certain children. These children are those with vision and hearing impairments and other special learning disabilities enrolled in the public schools or whose tuition and expenses in other schools are being paid by the school board under the provisions of this act. **(Sec. 10, Act 106, Laws of 1971) (L)**

Subject matter content for classes for the deaf should be consistent with the regular course of study for Alabama schools throughout elementary and secondary levels. However, the rate of achievement will not exceed the level of the students' language ability. Progress in the areas of arithmetic, science, and social studies will be determined by the acquisition of essential language concepts. The means of instruction differs for hard of hearing from those of the classroom for the deaf in that they give equal emphasis to both the auditory and visual channels of learning.

In many instances, it will be most beneficial for the children and youth enrolled in classes for the hearing impaired to be integrated into classes for the normally hearing for a part of the school day. In such cases, the teacher of the hearing impaired will serve as a resource teacher offering tutorial services to the pupil.

Speech therapy is done on an individual basis or in small groups. The type classes will be determined by the therapist or clinician based on the speech disorder of the children with whom she works.

Children must be unable to ride regular buses in order to be eligible for special transportation to public day schools.

Districts may receive, in place of the usual amount authorized by law, 80% of the cost of transportation for each bus used exclusively for the purpose of transporting eight or more exceptional children. A proportionate amount will be allowed for a vehicle used exclusively for transporting fewer than eight exceptional children.

Class Size:

	NUMBER OF PUPILS	
	Minimum	Maximum
SPEECH HANDICAPPED		
Speech therapist (Caseload)	75[1]	75[1]
AURALLY HANDICAPPED		
Special Class or Resource Program	10	15
DEAF		
Special Class	8	12

[1] Average per school year.

Special grouping arrangements include variety of administrative procedures appropriate to individual needs of children including self-contained classrooms and resource room.

Class enrollment depends upon both degree of handicapping condition and age of children within a program as follows:

1. Severely impaired — ages 4-8 years, 5-8 children;
2. Severely impaired — ages 8-16 years, 6-12 children;
3. Hard of hearing — ages 4-8 years, 8-12 children; and
4. Hard of hearing — ages 8-16 years, 8-15 children.

EDUCABLE MENTALLY HANDICAPPED		
Special Class	10	15
TRAINABLE MENTALLY HANDICAPPED		
Special Class	10	15
PHYSICALLY HANDICAPPED		
Special Class	8	12
VISUALLY HANDICAPPED		
Special Class (Partially Seeing)	10	15
BLIND		
Special Class	8	12
Aurally Handicapped		
AURALLY HANDICAPPED		
Special Class or Resource Program	10	15
DEAF		
Special Class	8	12

PRIVATE

Children may be educated in a semi-public or private school. The payment per exceptional child will not exceed the average per pupil appropriations for all exceptional children in a school district including an allowance for teacher units, transportation and all other kinds of state aid for exceptional children. Only children whose needs cannot be met in the school may use this program. It is further limited to private institutions approved or accredited for training of exceptional children by the state board. Institutions not meeting minimal standards will not be eligible, by direct or indirect means, to receive state funds. Also, no funds will be expended for training in any school or institution outside the state of Alabama. **(Sec. 6, Act 106, Laws of 1971) (L)**

Mild to moderately to severely retarded, but not including the profoundly retarded; speech impaired; deaf and hearing impaired; blind and vision impaired; the crippled and other physical handicaps; emotionally conflicted; socially maladjusted; special learning disabilities multiply handicapped, and gifted children are eligible for private school placements.

State funds cannot be paid to private schools for the handicapped unless the operation of the educational programs within the private schools were under the jurisdiction and control of the public school system. The State Board of Education is contracting agency, however, with privately owned and operated schools in the state servicing handicapped children. **(Op. Att'y. Gen. Vol. 74, Jan., Feb., Mar. 1954)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Class B Special Education Professional (Certificate No. 18)

eligibility for Class 8 Elementary Professional--(Certificate No. 5); bachelor's degree from an in-state or NCATE approved program or bachelor's degree including general education, valid for teaching grades 1-6, general education 59 hours, professional education 27 hours, plus 3 hours of materials and methods and 6 hours of student teaching

eligibility for Class B Secondary Professional--(Certificate No. 8); bachelor's degree, etc. (same as for elementary above) valid for teaching grades 7-12, general education preparation plus 3 hours of materials and methods in major or minor, 6 hours of student teaching in major or minor, and 24-30 hours in the major and 18 in the minor

for both (above) 3 hours--survey course in education of exceptional children and other requirements in area of endorsement (mentally retarded, physical disability, etc.)

Class A Special Education (Certificate No. 19)

eligibility for Certificate No. 18; master's degree in special education or endorsement area, including an internship (3 hours) and specified courses

Class AA Special Education (Certificate No. 20)

eligibility for Certificate No. 19; approved sixth year program

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

ALASKA

February 15, 1974

The State-Federal Information Clearinghouse *
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RIGHT TO AN EDUCATION

Constitution: "The legislature shall, by General Law, establish and maintain a system of public schools open to all children of the state and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institutions." **(Art. VII, Sec. 1, Alas. Const.) (L)**

Compulsory Attendance Law: Children between ages seven and 16 are required to attend the public schools of the state, and the parents or guardians of such children are responsible for insuring their attendance. The requirement is waived if: (1) the child's physical or mental condition makes attendance impractical, as determined by a competent medical authority; (2) the child is in the custody of the court or a law enforcement authority; or (3) the child is temporarily ill or injured.

A child may be suspended or denied admittance because of: (1) behavior which is inimical to the welfare, safety, or morals of other pupils; (2) a physical or mental condition which, in the opinion of competent medical authorities, renders the child unable to reasonably benefit from the available programs; or (3) a physical or mental condition which, in the opinion of competent medical authorities, will cause the attendance of the child to be inimical to the welfare of other pupils. If a child has been suspended or denied admittance because of reasons 2 and 3 above, he will be permitted to attend school only when he is obviously recovered or when a written statement by a competent medical authority to the local school board states that the child is no longer afflicted with or suffers from the physical or mental condition to the extent that it is a cause for suspension or denial of admission. **(AS 14.30.010, 14.30.045, and 14.30.047) (L)**

Policy: "It is the purpose of sections 180-350 of this chapter to provide competent education services for the exceptional children of legal school age in this state for whom the regular school facilities are inadequate and not available."

Responsibilities: All city or borough school districts must provide special services when at least five exceptional children of any one type are residents. **(AS 14.30186) (L)**

In interpreting Alaska's special education law (AS 14.30) as amended by Chapter 81 SLA 1965, the Attorney General said that "even a school district with less than 5 exceptional children must establish a special education program. However, unless the district has five or more children in one classification, it need not offer special services to this class. Thus a district must offer at least a minimal special education program (though not necessarily special services) even if it has less than five exceptional children and these are all in different classification." **(Op. Att'y. Gen. May 20, 1965)**

POPULATION

Definitions: " 'Exceptional children' means children who differ markedly from their peers to the degree that they are better served by placement in a special learning program, designed to serve their particular exceptionality; these children may be identified in the following categories:

Mentally Retarded Children are those children "having subaverage general intellectual functioning which (1) either originates during the developmental period or results from brain damage caused by disease or physical injury occurring subsequent to the developmental period, and (2) is associated with an impairment in adaptive behavior."

" 'physically handicapped' includes children whose known or diagnosed physical impairments are so severe or involved that special facilities or equipment or methods are needed to make their educational program effective;

" 'emotionally handicapped' includes children whose known emotional impairment is so severe or involved that special facilities, equipment, or methods are needed to make their educational program effective;

" 'children with learning disabilities' includes those who exhibit disorders in one or more [illegible] basic learning processes involved in comprehending or using expressive or receptive language and who may require special facilities, equipment, or methods to make their educational program effective;

" 'gifted' includes children having outstanding intellect, ability or creative talent; programs or services beyond the level of those ordinarily provided as regular school programs shall be submitted to the department of supplemental funding on an approved program basis.

" 'multiple handicapped' includes children whose known or diagnosed handicaps are determined to be any combination of this paragraph whose needs demand the provision of special facilities, equipment, or methods to make their educational programs effective." **(AS 14.30.351) (L)**

Age of Eligibility: Children are eligible for special services at legal school age, i.e. five to 19 years of age. **(AS 14.30.180) (L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Assessment and Placement: A local special education administrator or the parent or guardian of an exceptional child may apply for a child's enrollment in a special education program. If the administrator applies, he must have parental consent. The application is then forwarded to the local school board who, in turn, forwards it to the commissioner of education. The commissioner has the final responsibility for certifying the child for a special education program. **(AS 14.30.330) (L)**

If a parent or guardian of a handicapped child can certify that the child is receiving adequate educational advantages to the satisfaction of the local school board, enrollment in a special education program is not required. **(AS 14.30.340) (L)**

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ADMINISTRATIVE RESPONSIBILITY

The department of education is the chief administrative agency and, in conjunction with the local agencies, shall establish standards relative to special programs. The department will formulate, cooperatively with the department of health, the diagnostic standards for the identification and classification of exceptional children. **(AS 14.30.191) (L)**

The seven-member board of directors of the state school system has exclusive control of schools in the system, subject to the regulations of the commissioner and board of education. **(AS 14.08.090) (L)**

The Department of Health and Welfare is to establish the rules and standards for evaluation and classification of handicapped children.

Since the State Department of Education is required to establish the programs within State-operated schools, the Attorney General suggested that the programs established in State-operated schools be exemplary to the public schools. **(Op. Att'y. Gen. May 20, 1965)**

PLANNING

An advisory committee composed of, but not limited to, persons representing local education agencies, state agencies, parent groups, and organizations concerned with program and services for handicapped children is established by the commissioners of education and health and welfare to provide information and guidance for development of appropriate programs and services for handicapped children. **(L)**

FINANCE

Units are granted to districts conducting special education programs on the following schedule:

Average daily membership	No. of instructional units
5 – 8	
9 – 15	2
16 – 23	3
24 – 32	4
33 and over	4 plus 1 for each 9 pupils or fraction of 9.

(AS 14.17.041) (L)

If enrollment out of state is approved by a school district or the state director of the state operated system and the commissioner, the child's expenses are paid as follows:

1. the school district or board of the state operated school pays an amount equal to the local per pupil contribution;
2. the board of the state operated schools pays (a) 75 percent of the annual cost of the child's education or (b) an amount that when added to the local contribution equals the total cost of the child's education, whichever is less but not exceeding $6,000; and
3. the parent or guardian of the child pays any remaining cost, unless it is determined that the parent or guardian is unable to pay. In that case the remainder is borne by the local school district or board of the state operated schools. **(AS 14.30.295) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

An exceptional child may be sent to classes in another school district with the consent of his district or the state operated school, if he resides in a district or school attendance area with no provision for classes or if existing classes are inappropriate for his needs. The commissioner of education determines feasibility of a child attending a special class elsewhere in the state or in another state. **(L)**

A child may be sent to another state for special education services if the child's district of residence or school attendance area has no provision for classes appropriate to his needs. **(L)**

School districts accepting students from other school districts of the state collect tuition from the sending district at a rate based on that district's actual local contribution rate. Receiving school districts may bill the state for any difference between its own tuition rate and that of the sending district. **(L)**

If enrollment out of state is approved by a school district or the state director of the state operated system and the commissioner, the child's expenses are paid as follows:

1. the school district or board of the state operated schools pays an amount equal to the local per pupil contribution;
2. the board of the state operated schools pays (a) 75 percent of the annual cost of the child's education or (b) an amount that when added to the local contribution equals the total cost of the child's education, whichever is less but not exceeding $6,000; and
3. the parent or guardian of the child pays any remaining cost, unless it is determined that the parent or guardian is unable to pay. In that case the remainder is borne by the local school district or board of the state operated schools. **(L)**

SERVICES

" 'Special services' means but is not limited to transportation, special teaching, corrective teaching, corrective health habits, and the provision of special seats, books, teaching supplies, facilities, and equipment required for the instruction of exceptional children, and includes education and training for children who cannot utilize regular classroom instruction." **(AS 14.30.147) (L)**

The commissioner may establish special education routes if there are five or more students who qualify for special education or if there are fewer than five qualified students who because of the nature of their physical and/or mental handicaps cannot be feasibly transported on regularly established routes. A special education route must be terminated if the number of students to be transported falls to three or less during the last two months of the school year. **(R)**

Transportation is provided to public day schools and out of state programs. **(R)**

School buses owned by the district or by private contractors may be used. Public carriers may also be used. Payments may be made to parents if transportation is not provided. **(R)**

An aide may be assigned to the driver of a school bus; reimbursement is provided if the services were previously justified in writing and approved by the commissioner. **(R)**

School districts are reimbursed on a unit cost basis. When transportation is provided, exceptional children must, whenever practicable, be transported separately from other children. **(R)**

Districts which own or purchase transportation vehicles may include the purchase costs as a part of their claim for reimbursement. Claims must include justification of the capital expenditure and are subject to approval of the commissioner. **(R)**

If approved the reimbursement is limited to 90% of the total purchase price of each vehicle and must be paid as follows: first year 20%; second year 15%; third and fourth years 12.5% each; fifth, sixth and seventh years 10% each. **(R)**

School districts may provide instructional services to exceptional children who are hospitalized or confined to their homes. A child must receive at least 10 hours instruction each week in order to be counted as a pupil in the average daily attendance membership for state aid purposes. **(AS 14.30.305) (L)**

A department of health and welfare program gives assistance to groups of organized parents to provide evaluation and special training of exceptional children who do not come within the laws relating to special education because of their age or severity of handicap. Exceptional children in this context mean those who are physically handicapped and those who are educable and trainable mentally retarded. In order to qualify for aid, the parents must arrange for the necessary facilities and equipment for training centers for at least five children.

The services provided for those with special handicaps include nursery or preschool training in order to prepare children (when possible) for admission into special classes or regular school, or training in self-help, safety, social, and occupational skills for trainable mentally retarded children of school age who are incapable of academic subjects. **(AS 47.20.10-47.20.50) (L)**

Teachers of the handicapped must have a valid teaching certificate and any other training that the department of education may require. During the first year that special services are offered in a local district or a state operated school district, the local governing board or the state department may waive part of the qualifications for teachers of exceptional children. Persons qualified to serve as substitute teachers may serve as teachers of classes for exceptional children. **(AS 14.30.250-14.30.280) (L)**

Psychologists must meet the minimum standards in the state's classification plan for psychologists as well as any other requirements that the department of education may establish. **(AS 14.30.280) (L)**

A special appropriation from the general fund may be utilized to contract for services for the profoundly deaf **(House Bill 706, 1972) (L)**

Special education programs *may* be provided for children under school age through funds by the State Foundation Program (AS 14.17). The providing of such services is the discretion of the school district. **(Op. Att'y. Gen., Nov. 16, 1972)**

PRIVATE

See Administrative Structure and Finance.

If a public school system can contract with a private school to provide special education to handicapped children under school age, the contract can be made by a public school system only if through the private school "more convenient and economical services" are made available at the private which the public school system is unable to provide. **(Op. Att'y. Gen., Nov. 16, 1972)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Special Education Certificate (Type A plus Endorsement)

Completion of an NCATE-approved program, or a program which meets the requirements of Bulletin 351 of the U.S.O.E. in cooperation with the National Association of State Directors of Teacher Education and Certification. The certification requirements are reviewed by the State Department of Education.

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

STATE PROFILE

ARIZONA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

"Every qualified child aged six to 18 who cannot be educated in the public school because of partial or total blindness, deafness or defective speech must be sent to the state school for the deaf and blind unless he is being privately educated. Parents failing to send such a child to this school may be fined or imprisoned." (R)

Age of Eligibility: Services shall be provided to children from age five to 21. (L)

" 'Visually handicapped' means a child who has a vision deviation from the normal, as determined pursuant to Section 15-1013, which impedes his educational progress in the regular classroom situation and whose intellectual development is such that he is capable of being educated through a modified instructional environment. **(Sec. 15-1011 ARSA) (L)**

Age of Eligibility

Section 15-1081 and 1082, A.R.S., is interpreted to mean that a school district may set age limits or other criteria for the enrollment of students to a trainable retarded, as long as they do not conflict with the above statutes, which require the admittance of student between the ages of 6 and 21 years. **(Op. Att'y. Gen., Nov. 1963)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Assessment and Placement: A written method should be devised by the school district for local district utilization which will annually screen potential candidates for special education programs. A team, consisting of at least three members, should have a representative from as many professions as possible and may include: an administrator, special education personnel, counseling personnel, psychological personnel, school nursing personnel, school social work personnel, and, other appropriate personnel (e.g. speech therapist or learning disabilities specialist).

A thorough case study should be completed on each candidate for special education programs. This case study may be utilized in the referral for evaluation. A referral for evaluation is required by ARS 15-1013 and attention is called to the following quotation from the law: "A referral of a child for evaluation for possible placement in a special education program shall be made under the direction of the Chief Administrative Official of the school district or county or such person designated by him as responsible for special education after consultation with the parent or guardian. (R)

Before a child is evaluated for placement in a special education program, a determination will be made as to whether his primary language is other than English. A testing procedure for determining the primary language has been developed by the division of special education and is available upon request. The chief school administrator or his designated representative will attest in writing to the investigation and determination of the individual's primary language prior to evaluation of the student for special education.

If a child's primary language is determined to be other than English, a school district shall follow one or more of the listed procedures for evaluating a child for possible placement in a special education program.

1. Use a psychologist fluent in both the child's primary language and English.
2. Use an interpreter to assist the psychologist both with language and testing.
3. Use test instruments administered by a psychologist, which do not stress spoken language and which are considered valid and reliable performance measures of intellectual functioning, such as the Wechler Performance Scales.

Where an evaluation or re-evaluation under these regulations reveals that a child has been misclassified or misplaced as a handicapped child due to difficulty in writing, speaking or understanding the English language, the school district shall remove all indications of such misclassification or misplacement from the child's school records and shall also provide appropriate remedial instruction. (R)

Once each semester, the chief administrative official of the school district or the person responsible for special education shall review placements of children in special education programs, if requested by a parent or guardian or upon recommendation of the person conducting the special education program. Results of the review are submitted to the person making the request or recommendation. (Sec. 15-1014 ARSA) (L)

All persons having control of a child, who is between the age of six and 18 who is unable to attain an education in the public schools of the state because of partial or total blindness, deafness or defective speech, must send the child to the school for the deaf and blind. (Sec. 15-835 ARSA) (L)

A parent, guardian, or other person having charge of a school age child and who refuses to send the child who is physically and mentally qualified to the state school for the deaf and blind shall be fined from $5 to $25 and may be imprisoned from five to 90 days. (Sec. 15-836 ARSA) (L)

Placement of a candidate in a special education program shall not be considered until the screening, referral and evaluation procedures have been completed. Intelligence tests shall not be either the exclusive or the primary screening devices in considering a child for placement in classes for the handicapped. (R)

A child shall not be considered for placement in classes for handicapped children unless an examination of developmental history, cultural background, and school achievement substantiates other findings of an educational handicap. This examination shall include estimates of adaptive behavior. Such examination of adaptive behavior shall include, but not be limited to, a visit to the child's home to interview members of the family. This visit is to be with the consent of the parent or guardian by an appropriate professional advisor which may include, but not be limited to a physician, psychologist, professional social worker, or school nurse. If the language spoken in the home is other than English, such interviews shall be conducted in the language of the home. (R)

When a school district enrolls any children of any racial, linguistic or ethnic group in any class for exceptional children in a substantially greater or lesser percentage than the percentage of such racial, linguistic or ethnic group in the school population as a whole, such school district should be prepared to offer a compelling educational justification for such disproportionate enrollment. (R)

In determining placement the following persons shall be consulted by the chief administrative official of the school district or county or such person designated by him as responsible for special education: the school principal, a person responsible for administering or conducting special education courses in the school or school district, a teacher who currently has or recently has had the child, an appropriate professional advisor who may be a physician, psychologist, professional [illegible] school nurse, and a parent or guardian of the child.

RIGHT TO AN EDUCATION

Constitution: "The legislature shall enact such laws as shall provide for the establishment and maintenance of a general and uniform public school system, which system shall include kindergarten schools, common schools, high schools, normal schools, industrial schools, and universities (which shall include an agricultural college, a school of mines, and such other technical schools as may be essential, until such time as it may be deemed advisable to establish separate state institutions of such character). The legislature shall also enact such laws as shall provide for the education and care of the deaf, dumb, and blind." **(Art. XI, Sec. 1 Ariz. Const.) (L)**

"Provision shall be made by a law for the establishment and maintenance of a system of public schools which shall be open to all the children of the state and be free from sectarian control." **(Art. XX, Ordinance 2 Ariz. Const.) (L)**

Compulsory attendance Laws: All persons having custody of a child between ages eight and 16 must send the child to the public schools for the full school session. Parents may be excused from sending their child to school by the board of trustees, if it is shown to the satisfaction of the board and the county school superintendent that the child is in such a physical and mental condition that attendance at public school is either inexpedient or impracticable. **(Sec. 15-321 ARSA) (L)**

Policy: It is the intent of the legislature to guarantee equal educational opportunity to each handicapped child in the state regardless of the schools, institutions or programs by which such children are served. **(Ch. 181, 1973) (L)**

Responsibilities: The governing board of each school district or the county school superintendent shall by the school year 1976-1977 provide special education programs and required supportive services for all handicapped, except emotionally handicapped, children. **(Ch. 181, 1973) (L)**

The governing board of each common or high school district may establish special education programs for gifted and emotionally handicapped children. **(Ch. 181, 1973) (L)**

The Arizona Code which deals with instruction of homebound children (A.R.S. 15-1011 and 15-1012) does not make it mandatory that a school district provide instruction to homebound pupils. They may contract with the county school superintendent for homebound instruction, but it is not required by law. **(Op. Att'y. Gen., March 28, 1960)**

POPULATION

Definitions: " 'Exceptional child' means a gifted or a handicapped child.

" 'Gifted child' means a child of lawful school age who, due to superior intellect, advanced learning ability or both, is not afforded an opportunity for otherwise attainable progress and development in classroom instruction and who needs special instruction or special ancillary services, or both, to achieve at levels commensurate with his intellect and ability.

" 'Handicapped child' means a child of lawful school age who, due to physical, mental, or emotional characteristics, or a combination thereof is not afforded the opportunity for all-around adjustment and progress in regular classroom instruction and who needs special instruction, special ancillary services, or both, to achieve at levels commensurate with his abilities. Handicapped children include the following:

" 'educable mentally handicapped' means a child who, because of slow intellectual development, as determined by evaluation pursuant to Section 15-1013, is incapable of being educated effectively through regular classroom instruction, but who is capable of achieving a degree of proficiency in basic academic skills and as a result of special education, may become economically productive and socially adjusted.

" 'emotionally handicapped' means a child who, because of his serious emotional problems, as determined by evaluation pursuant to Section 15-1013, is unable or incapable of meeting the demands of regular classroom programs in the public school and requires special classes or special services designed to promote his educational growth and development;

" 'homebound' or 'hospitalized' means students who are capable of profiting from academic instruction, but who are unable to attend school due to illness, disease, accident, pregnancy or handicapping conditions, who have been examined by a competent medical doctor and are certified by that doctor as being unable to attend regular classes for a period of not less than three school months;

" 'multiple handicapped' means a child who has severe learning and developmental problems resulting from multiple handicapping conditions as determined by evaluation pursuant to Section 15-1013 and who cannot be provided for adequately in a regular class;

" 'physically handicapped' means a child who has a physical handicap or disability, as determined by evaluation pursuant to Section 15-1013, which impedes his or her normal progress in a regular classroom situation and whose intellectual development is such that he is capable of being educated through a modified instructional environment.

" 'specific learning disabilities' means the condition of a child who exhibits a significant discrepancy between ability and achievement as determined by evaluation pursuant to Section 15-1013. The specific learning disability may be manifested by perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, developmental aphasia, but excluding learning problems which are due primarily to visual, hearing or motor handicaps, mental retardation, emotional disturbance or environmental disadvantage.

" 'speech handicapped' means a child whose speech deviates, as determined by evaluation pursuant to Section 15-1013, to the extent that it calls attention to itself, interferes with communication or causes the child to be maladjusted.

" 'trainable mentally handicapped' means a child who because of intellectual development, as determined by evaluation pursuant to Section 15-1013, is incapable of being educated in regular classroom instruction or educable mentally handicapped classes but who is capable of [illegible] to the school experience;

" 'hearing handicapped' means a child who has a hearing deviation from the normal, as determined pursuant to Section 15-1013, which impedes his educational progress in the regular classroom situation and whose intellectual development is such that he is capable of being educated through a modified instructional environment.' " **(Sec. 15-1011 ARSA) (L)**

One representative from each of the above categories shall meet together as an evaluation team to review the evaluation and placement of any child considered for placement in classes for handicapped children. The evaluation team shall recommend an appropriate educational program for all children considered for placement or placed in classes for exceptional children. (L)

Parental approval must be obtained in writing prior to placement of any child in classes for handicapped children. A description of the nature and content of the special program offered, their prior effectiveness in benefiting children assigned there, and the possibility for the rate and time of return of children to regular classes shall be explained in the primary language of the home. Written permission for placement in the recommended special education program shall be obtained on a form in English and the primary language of the home. Such forms shall also contain notice in both English and the primary language of the home of the right of the parent or guardian to request a review of the placement once each semester, and to withdraw consent for placement in classes for exceptional children. **(R)**

All communication with parents of children considered for placement in classes for handicapped children, whether written or oral, shall be in the primary language of the home.

The parent or guardian or his authorized agent of a child considered for placement in classes for exceptional children shall have complete access to school records affecting his/her child upon request and shall receive the full cooperation of school officials in examining those records during regular school office hours.

Information regarding any assessment of a child shall be confidential (other than to parent or guardian or his representative) or professionals involved in carrying out programs for the individual. **(R)**

A method shall be devised by the school district to determine whether a potential candidate for the specific learning disabilities program, through his demonstrated ability on group intelligence tests or in the regular classroom setting. The discrepancy between ability and actual achievement as shown on standardized achievement tests is usually two years or more. The two-year discrepancy need not apply in the primary grades. **(R)**

A referral for evaluation is required for possible placement in a special education program and this referral shall be made after consultation with the parent or guardian of the child to be evaluated.

ARS 15-1013 requires that an evaluation shall be made by at least one professional specialist in a field relevant to the child's handicap. Therefore, an evaluation by one or more of the following is required before any candidate for a learning disabilities program may be placed: a certified school psychologist, licensed psychologist, and education specialist in learning disabilities.

Placement of a candidate in a learning disabilities program shall not be considered until the referral and evaluation procedures have been completed.

ARS 15-1014 requires that the placement of a child in a learning disabilities program shall be reviewed once each semester, if requested by the parent or guardian of the child or recommended by the person conducting the learning disabilities program.

To assure proper educational placement, each child in a learning disabilities program shall be reviewed annually.

A procedure shall be devised by the school district with the advice of an approved speech clinician to adequately screen potential candidates for a speech handicapped program. The procedure should be sufficiently detailed to indicate problems of an organic and/or functional or environmental nature.

A referral for evaluation is required by ARS 15-1013 for possible placement in a speech handicapped program, and this referral shall be made after consultation with the parent or guardian of the child to be evaluated. **(R)**

ARS 15-1013 requires that an evaluation shall be made by at least one professional specialist in a field relevant to the child's handicap. The evaluation shall be made by an approved speech clinician.

Placement of a candidate in a speech handicapped program shall not be considered until the referral and evaluation procedures have been completed.

ARS 15-1014 requires that the placement of a child in a program for the speech handicapped is reviewed once each semester, if requested by the parent or guardian of the child or recommended by the person conducting the program.

ADMINISTRATIVE RESPONSIBILITY

There is created a division of special education to carry out the provisions of the article subject to the state superintendent of public instruction.

The director of the division of special education is appointed by the state superintendent of public instruction with the advice and consent of the state board of education. The compensation of the director is determined pursuant to section 38-611.

The director carries out the provisions of this article and the duties prescribed by the state board of education relating to the administration of the provisions of this article.

The division of special education must review special education programs, including placement of pupils, to determine that program evaluation and placement procedures comply with the provisions of sections 15-1013 and 15-1014 and the rules and regulations approved by the state board of education. (L)

PLANNING

All school districts shall develop a district for providing for special education to all handicapped, except emotionally handicapped children within the district. This plan must be submitted to the state board of education by July 1, 1975. The plan must have approval prior to November 1, 1975. (L)

A special education advisory committee advises and consults with the state board of education, the state superintendent of public instruction and the director of the division of special education and engages in other activities mentioned below. The advisory committee is composed of twelve members, no more than five of whom may be officers or employees of local school districts.

The advisory committee shall be composed of persons broadly representative of community organizations interested in exceptional children, professions related to the educational needs of exceptional children, and the general public. It shall have a minimum of two meetings a year.

The advisory committee shall elect its own chairman and vice-chairman. The state board of education shall regularly submit as part of its budget request, any item or items sufficient to cover expenses of the operation of the advisory committee and of its members in connection with their attendance at meetings of the advisory committee and other advisory committee activities. (L)

FINANCE

The state board of education may accept gifts of money from public and private organizations for the division of special education if the purpose of the gift as specified by the donor is approved by the board and is within the scope of the board's powers and duties. A fund is established for the placement of these monies and is designated as the exceptional children's special education fund. (Sec. 15-1016 ARSA) (L)

On the basis of the records of the superintendent of public instruction, the legislature appropriates the following, based on the average daily attendance of each student in special education classes:

1. $380 per unit of ADA of educable mentally handicapped pupils.
2. $380 per unit of ADA of emotionally handicapped pupils.
3. $50 per unit of ADA of gifted pupils.
4. $526 per unit of ADA of homebound pupils.
5. $590 per unit of ADA of multiple handicapped pupils.
6. $380 per unit of ADA of specific learning disabled pupils.
7. $380 per unit of ADA of physically handicapped pupils.
8. $690 per unit of ADA of trainable mentally handicapped pupils.
9. $700 per unit of ADA of hearing handicapped pupils.
10. $700 per unit of ADA of vision handicapped pupils.

The legislature shall appropriate $55 for each speech handicapped pupil, except that such monies shall not be paid on behalf of more than ninety pupils for each certified speech therapist employed by the school district or county. (L)

In addition, the county shall provide the following amount for each special education student taught by school districts: $10 per student in ADA for educable mentally handicapped, emotionally handicapped, homebound, multiple handicapped, physically handicapped, specific learning disabled, and trainable mentally handicapped pupils. (L)

The district's apportionments are computed on the basis of the estimated number of special education students to be taught during the current year in these programs with a minimum of 240 minutes of instruction or work experience in each school day. A child receiving instruction under the homebound teaching program is considered in full attendance if he receives instruction for at least four hours each week. Any additional special education cost not provided for under the provisions of this section will be met by the servicing school district or by the county, in the case of the county special education program. (Sec. 15-1017 ARSA) (L)

Any special education per capita operational cost over and above the per capita operational cost of a district as shown in item 7 of the six per cent budget limit check shall be exempted from the six per cent budget limit.

The budget six per cent limit does not apply to any school district acting as either fiscal or administrative agent for an intergovernmental agreement pursuant to section 11-952, for the provision of programs provided for in section 15-1015, subsection A, paragraph 1, to the extent of tuition monies budgeted and received from other cooperating school districts. (L)

Until the school year 1976-1977, or such earlier time as the district of a pupil's residence provides a course of instruction for the nonemotionally disturbed handicapped children for which such child is eligible, the child, upon application of his parent or guardian to the division of special education, shall have a voucher qualification level equal to the state basic grant under section 15-1211, Arizona Revised Statutes, and the relevant category of state special education assistance under section 15-1017, Arizona Revised Statutes.

The parent or guardian may present the voucher for such child to any person, school or other institution within this state which offers suitable special education instruction and supportive services approved by the department of education, division of special education.

The voucher shall be valid as a payment of tuition and costs of such instruction to the extent of the qualification level, but not in excess of the standard charge for tuition and costs as applicable to any pupils of such instruction for whom no voucher under this section is available. (L)

If a school district decides to enroll a child in a homebound program through a special school, then the school district must pay any additional costs of that education. (Op. Att'y. Gen., March 18, 1960)

(Please note in Right to Education that this instruction is not mandatory.)

The $700 appropriation under Section 15-1213, A.R.A. 1956, as amended 1960, may be claimed for the education of deaf and hard-of-hearing students as well as blind and partially sighted children. The standards set up by the Arizona State School for the Deaf and Blind are to be used to determine eligibility of children. (Op. Att'y. Gen., April 17, 1961)

House Bill No. 90, through Section 15-1020, excluded the homebound students from the provisions of Article 2.1. (These laws dealt with the education of handicapped children in Arizona.), thus the County School Superintendent may operate accomodation (special) schools for homebound children. The Superintendents "are precluded from entering into the special education program as prescribed by the Legislature in House Bill No. 90." (Op. Att'y. Gen., May 19, 1961)

Sections 15-448 and 15-1213 A.R.S. provide for the education of the blind. Sections 15-1016 through 1019, A.R.S. of House Bill 90 provides for the education of the educable mentally handicapped. If a child meets the requirements of both programs and is being instructed under both programs, then the school system is entitled to receive appropriation under both statutes. The State Board of Education must give approval. (Op. Att'y. Gen., October 31, 1962)

A number of Arizona laws provide for the finance of the education of deaf children (Sections 15-1211, A.R.S., 15-1212, A.R.S., and 15-1235). Other laws provide for trainable mentally handicapped (Sections 15-1082 A.R.S., and Section 15-1083, A.R.S.). If expenditures by a school system for the education of deaf or trainable mentally retarded children are more than allotted under the above Sections, then the additional costs must be borne by the school district. (Op. Att'y. Gen., October 1, 1963)

If a school district receives federal funds for the education of handicapped children under P.L. 89-10, Title I, they are also entitled to State funds. (Op. Att'y. Gen., June 20, 1966)

Transportation cost of a student to an Accommodation (special) school may be considered part of the tuition to be paid by the sending district. (Op. Att'y. Gen., October 16, 1969)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The governing body of each common or high school district, county or agencies involved in intergovernmental agreements may, in cooperation with another district or districts, establish special education programs for exceptional children. When two or more governing bodies determine to carry out by joint agreement the duties in regard to the special education programs for exceptional children, the governing bodies shall, in accordance with state law and the rules and regulations of the division of special education, establish a written agreement for the provision of services. In such agreements, one governing body of each common or high school district, agencies involved in intergovernmental agreements, or the county school superintendent shall administer the program in accordance with the contract agreement between the districts. Tuition students may be included in the agreement. (L)

A school district or county school superintendent may contract with, and make payments to, other approved public or private schools, institutions and agencies approved by the division of special education, within or without the district, for the education of and provision of services to exceptional children if unable to provide satisfactory education and service through its own facilities and personnel in accordance with the rules and regulations prescribed by the division of special education. (L)

"The County School Superintendent has no statutory authority to set up a program for the training or education of partially or totally blind or deaf children." The statutes only provide for such establishment by individual school districts. (Op. Att'y. Gen., May 27, 1964)

"The State Board of Vocational Education, through its Division of Vocational Education, may establish vocational education classes in accommodation schools, the Children's Colony and the School for the Deaf and Blind." (Op. Att'y. Gen., March 13, 1970)

BEST COPY AVAILABLE

SERVICES

"'Special education' means the adjustment of the environmental factors, modifications of school curricula, and adaptation of teaching methods, materials, and techniques to provide educationally for those children who are gifted or handicapped to such an extent that they do not profit from the regular school curricula or need special education services in order to profit. Difficulty in writing, speaking or understanding the English language due to an environmental background wherein a language other than English is spoken primarily or exclusively shall not be considered a sufficient handicap to require a special education." (Sec. 15-1011 ARSA) (L)

The board of directors for the Arizona State School for the Deaf and the Blind has established a branch elementary day school in the Phoenix area. (Sec. 15-851 ARSA) (L)

The governing body may also apply to the division of special education for approval to establish work experience programs in accordance with rules and regulations of the division of special education. The work experience programs shall consist of classroom instruction, evaluation, training, and part-time employment. The evaluation, training and part-time employment may take place on or off the school campus, in or out of the school district, but must be under supervision of certified and/or approved school personnel. Students enrolled in the work experience program shall be at least 16 years of age. Time in a work experience program shall be counted as attendance at school to qualify for appropriations provided by ARS § 15-[illegible]. All work experience programs must have the approval of the division of special education. (R)

Class Size:

	NUMBER OF PUPILS	
	Minimum	Maximum
Learning Disabled		
Special Class		10
Speech Handicapped		
Speech Therapist (Caseload)		90
Aurally Handicapped	NA[1]	NA[1]
Deaf	NA[1]	NA[1] (R)

[1] Programs in these areas are administered and supervised by the Arizona State School for the Deaf and Blind in Tucson, Arizona.

	Minimum	Maximum
EDUCABLE MENTALLY HANDICAPPED		
Special Class	--	15
TRAINABLE MENTALLY HANDICAPPED		
Special Class	--	10
PHYSICALLY HANDICAPPED		
Special Class	--	10
Home or Hospital Instruction (Caseload)	--	7
Special Class for Pregnant Girls	--	15
EMOTIONALLY DISTURBED		
Special Class	--	10
LEARNING DISABLED		
Special Class	--	10
MULTIPLY HANDICAPPED	--	5
Special Class (Ages 6-10)	--	5
Special Class (Ages 11 and above)	--	7
VISUALLY HANDICAPPED	NA[2]	NA[2]
BLIND	NA[2]	NA[2]

Under the current law it is possible to provide several different types of programs for exceptional children. All plans are subject to review and approval by the division of special education, state department of education. Any plan must be submitted in writing with sufficient detail to clearly outline the proposed program. Any pupil in these programs must be referred, evaluated, and placed in accordance with ARS § 15-1011 and § 15-1013.

In cooperative programs, the exceptional pupil may be enrolled in the special class but may take part of his academic instruction in the regular grade.

The resource program is an instructional setting which provides specialized assistance to the exceptional pupil, either individually or in small groups, according to his capabilities and limitations. The pupil is scheduled for full time attendance reporting in a resource program. He receives instruction in the resource program on a regularly scheduled basis and for specific periods of time depending upon the individual educational needs of the student.

The maximum membership in programs A and B for reimbursement purposes shall be 15 students per teacher unless a paraprofessional is utilized, which will allow a maximum of 17 students. (R)

A school district may receive special education funds under A.R.S. 15-1019 for a student who does not go full time to Special Education Classes, but goes to regular classes for certain subjects. As long as the student meets the definition of handicapped and gets a total of 240 minutes of instruction a day, the school can receive the special education funds. (Op. Att'y. Gen., Jan. 4, 1962)

The Arizona Foundation for Blind Children provides special services not afforded in the schools to blind students. These services must be done on a voluntary basis, and the schools cannot pay for the service. However, the Foundation provides certain reading material and library services to certain school districts. The Foundation is entitled to compensation for this material. (Op. Att'y. Gen., May 1, 1961)

A school system with a work experience program for educable handicapped and trainable retarded children can only receive apportionment under A.R.S. 15-1211 and 15-1235 for the time the students are in the school's classroom facilities and under authorized school district personnel supervision. No reimbursement can be given for time spent at the training facility such as a store, factory, etc. (Op. Att'y. Gen., Feb. 13, 1963)

PRIVATE

See also Finance and Administrative Structure and Organization.

Every special education program maintained shall be approved by the division of special education according to the guidelines established by the division. All provisions of the guidelines of special education are approved by the state board of education and filed with the secretary of state. (L)

Provisions for determining eligibility and approval of the public or private agency providing for the education of handicapped children under ARS § 15-1015 are as follows:

1. The special classes or services in which the child is enrolled shall be instructed by certified and/or approved special education personnel in the area of exceptionality.
2. The physical facilities, equipment, and instructional materials shall be adequate to carry on an acceptable special program.
3. The public or private agency shall develop or utilize an acceptable curriculum guide for the appropriate exceptionality.
4. The public or private agency shall develop a written, coordinated plan with the public school for reporting attendance, consultation [illegible] plan for the return of the child to the public school.
5. Professional ancillary services (see ARS § 15-1015) shall be available to provide an acceptable special education program.
6. The public or private agency desiring approval of the division of special education shall submit a written request to the division of special education at least 60 days prior to offering services to public school districts. Approval or disapproval will be transmitted to the public or private agency within 60 days. Approval or disapproval shall be effective for one school year only.
7. The public or private agency shall submit to the division of special education annually at the end of the school year the names and districts of residence of students attending under the provision of ARS § 15-1015(E).
8. The public or private agency shall provide adequate liability insurance. (L)

Public school districts desiring to place children in a public or private agency for educational purposes as defined in ARS § 15-1015 (E) shall:

1. Determine from the division of special education if the public or private agency is approved.
2. Determine that the child to be enrolled qualifies under ARS § 15-1013. A qualifying report must be submitted to the division of special education prior to enrollment.
3. Initiate a contract [illegible] for educational services only. Medical services, parent counseling beyond the school program, and individual therapy cannot be included in the cost to the public school. A copy of the contract must be submitted to the division of special education.
4. Report attendance in the same manner as other special education classes according to data received from public or private agency.
5. Determine that adequate liability insurance is provided by the public or private agency conducting the instructional program. (L)

An Arizona school system may not pay a New Mexico school for the education of a student who has a severe speech impediment when facilities that are available are considered inadequate. The Arizona State School for the Deaf and the Blind is the institution which should service the pupil. (Op. Att'y. Gen., July 21, 1961)

A school system in Arizona does not have to pay for the education a child received in special classes at a hospital, in another State, while recuperating from an operation. (Op. Att'y. Gen., Nov. 7, 1962)

If a school system contracts with a private agency for the education of handicapped children under 15-1015 A.R.S., the private agency is allowed to charge whatever they deem necessary. The contract with the private agency must be for educational purposes only and not medical or counseling services. It must be considered reasonable and fair, and there must be no "fraud, corruption or bad faith in relation to it."
(Op. Att'y. Gen., November 21, 1967)

Handicapped students attending private schools are considered "tuition students", and the payment is placed under Category IX. (Op. Att'y. Gen., November 21, 1967)

The handicapped student in the private school must receive at least 240 minutes of instruction in order for the private school [illegible] payments from the sending public school system. [illegible] November 21, 19[illegible]

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Special Education Temporary Certificate

Elementary temporary – bachelor's degree, general education 40 hours, academic major 30 hours, or academic minor 18 hours and 12 in an additional field of specialization -- curriculum methods, student

teaching in grades 1-8 or two years of experience, also 18 hours in special education.

Secondary temporary – bachelor's degree, general education 40 hours, teaching major 30 hours, curriculum and methods of the special field, student teaching in grades 7-12 or two years of experience and 18 hours in special education.

Special Education Standard Certificate

Elementary standard – master's degree in an approved program or 30 graduate hours in an appropriate program developed by the INstitute|s Co

Elementary standard -- master's degree in an approved program or 30 graduate hours in an appropriate program developed by the Institute's Commission on teacher education.

Secondary standard -- (same as for elementary standard)

NOTE: In-state graduates are certified on the basis of a statement from the preparing institution of satisfactory completion of an approved program bearing on the requested certificate. Out-of-state graduates of NCATE or regionally accredited institutions are accepted if they substantially meet the requirements after the transcript of credits is evaluated.

FACILITIES

Facilities for special education programs shall be equal to, or better than, those used to house regular school programs or in other facilities approved by the division of special education. (R)

STATE PROFILE

ARKANSAS

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

ARKANSAS

RIGHT TO AN EDUCATION

Constitution: "Intelligence and virtue being the safeguards of liberty and bulwark of a free and good government, the state shall ever maintain a general, suitable and efficient system of free schools whereby all persons in the state between the ages of 6 and 21 years may receive gratuitous instruction." **(Art. 14 Sec. 1, Ark. Const.) (L)**

Compulsory Attendance Law: Compulsory school attendance requirements for children between the ages of seven and 15 are waived for children who are mentally or physically incapacitated for performing school duties. **(Sec. 80-1504 Ark. Stats.) (L)**

Every parent, guardian, or other person having control of any mentally normal minor over age eight who has defective hearing or sight to the extent that he is not benefited by instruction in the public schools must send such child to the state schools for the deaf and the blind. The child must attend the schools for at least [illegible] weeks of each year until he has completed the course of instruction at the school, or until he has been discharged by the superintendents of the schools. **(Sec. 80-2401 Ark. Stats.) (L)**

Children will be excused from this provision if they are receiving instruction by a private tutor or at another approved school, if they are physically incapable of performing school work" or for any other reason which is deemed sufficient by the superintendent of schools. **(Sec. 80-402 Ark. Stats.) (L)**

Policy: It shall be the policy of this state to provide and to require school districts to provide, as an integral part of the public schools, special education sufficient to meet the needs and maximize the capabilities of handicapped children. The implementation of this policy, within the time limit provided for elsewhere in this Act, to the end that all handicapped children receive the special education necessary to their proper development is declared to be an integral part of the policy of this state. **(Act 102 of 1973) (L)**

Responsibility: The department of education shall provide or cause to be provided by school districts, or in some cases by other departments of state government, institutions, or through private facilities, all regular and special education, corrective and supporting services required by handicapped children to the end that they shall receive the benefits of a free public education appropriate to their needs. It is the intent of this statute to provide that full services shall be available to all handicapped school age children in the state within six years or by the school year 1979-80. **(Act 102 of 1973) (L)**

The effective date of Act 102 is July 1, 1973. This act provides mandatory special education services to handicapped children at a rate "equal to the effort expended on account of the education of each child who does not have a handicap." The date of implementation of certain sections was under question. The Attorney General said all sections go into effect as of the above date. He further stated that "while Act 102 places the ultimate responsibility upon the State, this does not relieve local school districts from the obligation to put forth an immediate effort on behalf of handicapped children at least as great as that expended for non-handicapped children." **(Op. Att'y. Gen., Sept. 7, 1973)**

POPULATION

Definitions: " 'Handicapped child' means a natural person between the ages of six and twenty-one years who because of mental, physical, emotional or learning problems requires special education services. If and when the state activates a kindergarten program for five year old children, the ages shall be between five and twenty-one years. This term is to be specifically interpreted to mean, but not wholly limited to, the mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, crippled, specific learning disabled, or other health impaired children who by reason thereof require special education and related services." **(Act 102 of 1973) (L)**

A hard of hearing child is "a child who has a relatively flat audiometric contour and an average pure tone hearing threshold of 50 db or greater for the frequencies 500, 1000, 2000 cps in the better ear (ISO-1964), or has an abruptly falling audiometric contour and an average pure tone hearing threshold of 500-2000 cps frequency range, and who functions as a hard of hearing child and is approved for placement in a special class by the divison of special education." **(R)**

Educable mentally retarded children are those in the general intelligence range of 50-75, of legal school age, with sufficient maturity to adjust to general school routine.

Trainable mentally retarded children are those in the general intelligence range below 50, who are able to communicate their needs and wants and to understand simple direction. These children must be able to see, hear, and move around, sufficiently to engage safely in class activities, and must be toilet trained enough to make it feasible to keep them in school. They must also be emotionally stable and socially developed to the extent that they can work and live safely with others without seriously disturbing the learning situation, and must be capable of reacting to learning situations.

A learning disabled child is one who has adequate mental ability as defined by at least 90 points on either a verbal or performance subtest of a Wechsler intelligence scale and has adequate vision and hearing; and who manifests specific in listening, talking, reading, spelling, or arithmet[illegible]

A visually handicapped child is one whose vision is 20/70 or less in [illegible] eye after correction, or a child who cannot read 18 point print at any distance, on the basis of a cur[illegible]mination by an eye specialist.

Orthopedically handicapped child is one who has a physical defect which interferes with the normal function of the bones, muscle or joints.

Special health problems- a child who has any of a number of acute or chronic conditions affecting his ability to adjust to the regular classroom.

Age of Eligibility: Children may receive special education services from age 6 to 21. If and when the state activates a kindergarten program for 5 year old children, the ages shall be between 5 and 21. **(Act 102 of 1973) (L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Screening: Boards of directors of school districts may hire one or more physicians or nurses to conduct physical examinations in the public schools. The examination shall be restricted to detecting contagious disease or any defective sight, hearing or function or condition of health that would prevent the pupil from receiving the full benefit of school work. These examinations should be conducted at least once every school year. Teachers may make the test of sight and hearing under regulations prescribed by the state board of education. **(Sec. 80-1219 Ark. Stats.) (L)**

Assessment and Placement: Specific eligibility requirements for admission to these special services shall be the responsibility of the state board of education. Eligibility for services and provisions of this act are limited to those students enrolled in the public schools and/or approved treatment institutions in the state. The local public school board or governing board of an approved treatment institution shall be responsible for the initial determination of eligibility, but the final determination, in the event of controversy, shall rest with the board or its designated representative.

Children may be admitted to and discharged from all such special education services on the recommendation of physicians under whom they are being treated, or by medical, psychological, psychiatric, or therapeutic experts chosen or approved by the board. **(Act 102 of 1973) (L)**

To the maximum extent practicable, handicapped children must be educated along with children who do not have handicaps and shall attend regular classes. Impediments to learning and to the normal functioning of handicapped children in the regular school environment should be overcome, when possible, by the provision of special aids and services rather than by separate schooling for the handicapped. **(Act 102 of 1973) (L)**

Separate schooling or other removal of handicapped children from the regular educational environment occurs only when, and to the extent that the nature or severity of the handicap is such, that education in regular classes, even with the use of supplementary aids and services, cannot be accomplished satisfactorily. **(Act 102 of 1973) (L)**

The regular classroom teacher in most cases makes the original referral. Prior to referral the teacher must verify his observations through a group testing program.

Children scoring in the lower ranges of the group test, usually an IQ of 80 or lower or two grades behind in reading and who are not making normal progress are generally referred for an individual psychological evaluation. Standardized achievement tests may be used to determine whether a child is making normal progress with teacher devised achievement tests used as a supplement. Medical screening should be held annually. **(R)**

The state board of education chooses or approves experts to perform evaluations to determine whether a child may be admitted to, or taken out of, a special education program. The recommendations of a doctor treating the child may be substituted, as a basis for changing the educational status of the child.

Health records must be examined to determine if difficulties result primarily from a vision or hearing impairment or other health problems. If vision and hearing have not been tested this should be done. If the health record indicated a health problem which might affect school performance, a thorough evaluation by an appropriate medical specialist, i.e., otologist, ophthalmologist, or neurologist, should be arranged.

Each child considered for special class placement must be given a psychological evaluation by a certified examiner to assess the child's mental ability and obtain other diagnostic information. An individual intelligence test, such as the Stanford-Binet Intelligence Scale or a Wechsler Scale is given. The evaluation and report may also contain observation regarding the child's personality and a prognosis of ultimate self-sufficiency. The report must include a recommendation for special class placement for other changes in the child's school program. **(R)**

Special class pupils at the secondary level should be permitted to enroll in certain regular classes whenever possible.

After it has been decided that a child will be placed in a special class or program, the parent and child are entitled to an explanation. Generally, no pupil will be assigned to a special class without parental consent. However, each district is allowed to set its own policy and to deal differently with individual cases. **(R)**

The superintendent, principal, or counselor usually meets with the parents, although the psychologist who has evaluated the child is included in some cases. The child's difficulty in school, avoiding such labels as "mentally retarded" and the advantages of special class placement to the child must be explained by the interviewer, and the parent must consent to the placement.

If the parents strongly oppose a special placement and the child is plainly in need of a special education program and his mental health is being impaired by continued enrollment in the regular classroom, it may be necessary for his future success and adjustment to transfer him to the special class even if parents are adamantly opposed. **(R)**

Children in special education classes must be periodically re-evaluated. Initial test results more than three years old may not be used for continued placement. Pupils with noticeable difficulties in adjustment and/or in their studies must be re-evaluated more frequently and in greater depth than other children. **(R)**

BEST COPY AVAILABLE

FINANCE

The board is hereby granted authority to contract for services with the department of social and rehabilitative services, physicians, or other individuals or organizations which, in the opinion of the board, possess the necessary expertise to warrant a contract. In the event of a contract, fees paid by the board may not exceed the amounts which would be paid by a private individual for such services. **(Act 102 of 1973) (L)**

The department of education shall develop such plans and procedures as may be required in order to receive and disburse federal funds for handicapped children. **(L)**

The board is hereby designated as the state agency to receive and disburse federal funds designed to improve educational opportunities provided for exceptional children. Such funds shall not include monies appropriated specifically for use by other agencies, institutions, or treatment facilities for exceptional children. **(Act 102 of 1973) (L)**

The specific intention of this section is to provide that the board is hereby designated as the state agency to receive and disburse federal and state funds made available to this state for education of handicapped children, except as specifically provided for otherwise by the U.S. Congress or the General Assembly, and no other interpretation shall be given to it. **(Act 102 of 1973) (L)**

The department of education is authorized to establish a special education materials center in keeping with available federal and state funds for this purpose. In such an eventuality, the functions of this center shall be in keeping with state and federal laws. **(Act 102 of 1973) (L)**

Full-time state employees are prohibited from being paid additional amounts over and above transportation and expenses for any services rendered in connection with this act. State employees may be paid transportation and expenses at the state rate established by the chief fiscal officer of the state, but may not be paid a salary, consultant fees, or other amounts which would, in effect, result in supplementing the full time salary already being paid the employee. **(Act 102 of 1973) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

In districts where there is not a sufficient number of children to organize a special class, children may be entered in special classes in another district if the plan is acceptable to both districts and the board. **(Act 102 of 1973) (L)**

Two or more districts may join together to establish special classes. One district may be designated as the controlling agent. **(L)**

All reimbursement for the education of the exceptional children from the board will be made to the controlling district. Local revenues or tuition from other districts participating in the cooperative will be paid to the controlling district on an accepted, prorated formula per child. **(Act 102 of 1973) (L)**

The Arkansas Children's Colony is given the power and authority to formulate and implement programs for the mentally retarded as well as construct and operate facilities for that purpose. **(Op. Att'y. Gen., May 6, 1970)**

SERVICES

The state board of education may establish hospital and convalescent classes in treatment institutions and pay the total cost of the educational programs. **(Act 39 of 1971) (L)**

All personnel employed by the school district conducting special classes must adhere to the qualifications and training prescribed by the board. **(Act 39 of 1971) (L)**

State aid may be used for the establishment of classes in school districts, for classes in treatment institutions, for home bound instruction, and for speech therapy for the purchase of specialized materials and equipment.

The state school for the blind may expend any available funds for the purpose of sending children (who are under the age of 21 who are both deaf and blind, and for whom there are no facilities in the state) to any school, institution, or other place outside the state having an approved program in the education for such children. The funds may be spent for tuition, transportation and any other necessary items. **(Sec. 80-2401.1 Ark. Stats.) (L)**

A current audiological and otological examination is required for placement in approved special education units for hard of hearing children. Periodic examinations are required for continued placement in approved programs.

Hard of hearing children with intelligence quotients between 50-75 should be placed in a special education program for slow learning, hard of hearing children at the Arkansas State School for the Deaf, Little Rock, Arkansas. (R)

An evaluation unit within the department of education for diagnostic purposes was established by recent legislation. In implementing this, the department of education is hereby granted authority and is directed to cooperate with the department of social and rehabilitative services and with available treatment institutions and qualified individuals in order to provide diagnostic services to handicapped children in need of such services. The department of education and social and rehabilitative services are authorized to [illegible] appropriations in establishing an evaluation unit for diagnostic purposes. (Act 102 of 1973) (L)

ADMINISTRATIVE RESPONSIBILITY

A section for the education of exceptional children in the department of education is headed by a coordinator who shall be qualified by education, training, and experience to take responsibility for, and give direction to, the programs of the department of education relating to the handicapped. Establishment of this section is dependent upon funds being made available to the department of education for this purpose. (Act 102 of 1973) (L)

The board is empowered to initiate, inspect, approve, and supervise a program of education for exceptional children. It is also hereby designated as the agency for cooperation with the state and federal government, the approved treatment centers, institutions, and the local schools in carrying out these provisions. The board fixes the necessary rules and regulations in keeping with the provisions of this Act and employs the necessary personnel for the proper administration of this act, if funds are available for this purpose. (Act 102 of 1973) (L)

The schools for the deaf and blind are under the supervision of a joint board of trustees which is subject to the administration of the state department of education. (Sec. 80-2301 and 2207 Ark. Stats.) (L)

The Arkansas Department of Mental Retardation has the exclusive responsibility and jurisdiction over the licensing of facilities for services to the mentally retarded.
(Op. Att'y. Gen., Aug. 17, 1970)

PLANNING

An advisory council for the education of the handicapped shall advise and consult with the director of the department of education and the coordinator of the section for the education of exceptional children and shall engage in such other activities as specified by this law. (Act 102 of 1973) (L)

The advisory council is to be composed of nine members who are not officers or employees of state agencies and no more than four of whom may be local school district officers or employees. The director of the department of education must appoint the members of the advisory council for three-year terms, except that of those first appointed, three must be appointed for terms of one year, three for terms of two years, and three for terms of three years. Vacancies which leave unexpired terms must be filled in the regular manner for the unexpired period of time, and vacancies as a result of expiration of terms must be filled in the regular manner for three-year periods. Appointees are not eligible for reappointment. The advisory council will have no administrative responsibility or authority and is to be advisory only. (Act 102 of 1973) (L)

The advisory council must be composed of persons broadly representative of community organizations interested in the handicapped, professions related to the educational needs of the handicapped, and the general public. (Act 102 of 1973) (L)

The advisory council must annually elect its own chairman and vice chairman. The coordinator of the Section for the Education of Exceptional Children must meet with and act as secretary to the advisory council and, within available personnel, facilities, and appropriations, must furnish meeting facilities and staff services for the advisory council. (Act 102 of 1973) (L)

The advisory council must:

1. have an opportunity to comment on rules and regulations proposed for issuance under the Handicapped Children's Act of 1973;
2. consider problems presented to it by the director of the department of education or the coordinator of the section for the education of exceptional children, and give advice on these problems;
3. review required state plans prepared by the section for the education of exceptional children prior to their submission to duly constituted authorities; and
4. make an annual report to the governor, the general assembly, the state board of education and the director of the department of education. The report must be available to the news media for public information purposes. Funds for the publication of this report must be made available by the department of education from its regular appropriations. Available federal and/or state funds may be used for this purpose. (Act 102 of 1973) (L)

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The department of education shall develop such plans and procedures as may be required in order to receive and disburse federal funds for handicapped children. **(L)**

The board is hereby designated as the state agency to receive and disburse federal funds designed to improve educational opportunities provided for exceptional children. Such funds shall not include monies appropriated specifically for use by other agencies, institutions, or treatment facilities for exceptional children. **(Act 102 of 1973) (L)**

The specific intention of this section is to provide that the board is hereby designated as the state agency to receive and disburse federal and state funds made available to this state for education of handicapped children, except as specifically provided for otherwise by the U.S. Congress or the General Assembly, and no other interpretation shall be given to it. **(Act 102 of 1973) (L)**

The department of education is authorized to establish a special education materials center in keeping with available federal and state funds for this purpose. In such an eventuality, the functions of this center shall be in keeping with state and federal laws. **(Act 102 of 1973) (L)**

Full-time state employees are prohibited from being paid additional amounts over and above transportation and expenses for any service rendered in connection with this act. State employees may be paid transportation and expenses at the state rate established by the chief fiscal officer of the state, but may not be paid a salary, consultant fees, or other amounts which would, in effect, result in supplementing the full time salary already being paid the employee. **(Act 102 of 1973) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

In districts where there is not a sufficient number of children to organize a special class, children may be entered in special classes in another district if the plan is acceptable to both districts and the board. **(Act 102 of 1973) (L)**

Two or more districts may join together to establish special classes. One district may be designated as the controlling agent. **(L)**

All reimbursement for the education of the exceptional children from the board will be made to the controlling district. Local revenues or tuition from other district participating in the cooperative will be paid to the controlling district on an accepted, prorated formula per child. **(Act 102 of 1973) (L)**

The Arkansas Children's Colony is given the power and authority to formulate and implement programs for the mentally retarded as well as construct and operate facilities for that purpose. **(Op. Att'y. Gen., May 6, 1970)**

SERVICES

The state board of education may establish hospital and convalescent classes in treatment institutions and pay the total cost of the educational programs. **(Act 39 of 1971) (L)**

All personnel employed by the school district conducting special classes must adhere to the qualifications and training prescribed by the board. **(Act 39 of 1971) (L)**

State aid may be used for the establishment of classes in school districts, for classes in treatment institutions, for the purchase of specialized materials and equipment, for homebound instruction, and for speech therapy.

The state school for the blind may expend any available funds for the purpose of sending children (who are under the age of 21, who are both deaf and blind, and for whom there are no facilities in the state) to any school, institution, or other place outside the state having an approved program in the education for such children. The funds may be spent for room or tuition or transportation and any other necessary items. **(Sec. 80-2401.1 Ark. Stats.) (L)**

A current audiological and otological examination is required for placement in approved special education units for hard of hearing children. Periodic examinations are required for continued placement in approved programs.

Hard of hearing children with intelligence quotients between 50-75 should be placed in a special education program for slow learning, hard of hearing children at the Arkansas State School for the Deaf, Little Rock, Arkansas. (R)

An evaluation unit within the department of education for diagnostic purposes was established by recent legislation. In implementing this, the department of education is hereby granted authority and is directed to cooperate with the department of social and rehabilitative services and with available treatment institutions and individuals in order to provide diagnostic services to handicapped children in need of such services. The departments of education and social and rehabilitative services are authorized and directed to work cooperatively in establishing an evaluation unit for diagnostic purposes. (Act 102 of 1973) (L)

ADMINISTRATIVE RESPONSIBILITY

A section for the education of exceptional children in the department of education is headed by a coordinator who shall be qualified by education, training, and experience to take responsibility for, and give direction to, the programs of the department of education relating to the handicapped. Establishment of this section is dependent upon funds being made available to the department of education for this purpose. (Act 102 of 1973) (L)

The board is empowered to initiate, inspect, approve, and supervise a program of education for exceptional children. It is also hereby designated as the agency for cooperation with the state and federal government, the approved treatment centers, institutions, and the local schools in carrying out these provisions. The board may adopt the necessary rules and regulations in keeping with the provisions of this Act and employ the necessary personnel for the proper administration of this act, if funds are available for this purpose. (Act 102 of 1973) (L)

The schools for the deaf and blind are under the supervision of a joint board of trustees which is subject to the administration of the state department of education. (Sec. 80-2301 and 2207 Ark. Stats.) (L)

The Arkansas Department of Mental Retardation has the exclusive responsibility and jurisdiction over the licensing of facilities for services to the mentally retarded.
(Op. Att'y. Gen., Aug. 17, 1970)

PLANNING

An advisory council for the education of the handicapped shall advise and consult with the director of the department of education and the coordinator of the section for the education of exceptional children and shall engage in such other activities as specified by this law. (Act 102 of 1973) (L)

The advisory council is to be composed of nine members who are not officers or employees of state agencies and no more than four of whom may be local school district officers or employees. The director of the department of education must appoint the members of the advisory council for three-year terms, except that of those first appointed, three must be appointed for terms of one year, three for terms of two years, and three for terms of three years. Vacancies which leave unexpired terms must be filled in the regular manner for the unexpired period of time, and vacancies as a result of expiration of terms must be filled in the regular manner for three-year periods. Appointees are not eligible for reappointment. The advisory council will have no administrative responsibility or authority and is to be advisory only. (Act 102 of 1973) (L)

The advisory council must be composed of persons broadly representative of community organizations interested in the handicapped, professions related to the educational needs of the handicapped, and the general public. (Act 102 of 1973) (L)

The advisory council must annually elect its own chairman and vice chairman. The coordinator of the Section for the Education of Exceptional Children must meet with and act as secretary to the advisory council and, within available personnel, facilities, and appropriations, must furnish meeting facilities and staff services for the advisory council. (Act 102 of 1973) (L)

The advisory council must:

1. have an opportunity to comment on rules and regulations proposed for issuance under the Handicapped Children's Act of 1973;
2. consider problems presented to it by the director of the department of education or the coordinator of the section for the education of exceptional children, and give advice on these problems;
3. review required state plans prepared by the section for the education of exceptional children prior to their submission to duly constituted authorities; and
4. issue an annual report to the governor, the general assembly, the state board of education and the director of the department of education. The report must be available to the news media for public information purposes. Funds for the publication of this report must be made available by the department of education from its regular appropriations. Available federal and/or state funds may be used for this purpose. (Act 102 of 1973) (L)

FINANCE

The board is hereby granted authority to contract for services with the department of social and rehabilitative services, physicians, or other individuals or organizations which, in the opinion of the board, possess the necessary expertise to warrant a contract. In the event of contract, fees paid by the board may not exceed the amount which would be paid by a private individual for such services. **(Act 102 of 1973) (L)**

The department of education shall develop such plans and procedures as may be required in order to receive and disburse federal funds for handicapped children. **(L)**

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A section for the education of exceptional children in the department of education is headed by a coordinator who shall be qualified by education, training, and experience to take responsibility for, and give direction to, the programs of the department of education related to the handicapped. Establishment of any positions depends upon funds being made available to the department of education for this purpose. (Act 102 of 1973) (L)

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3. review required state plans prepared by the section for the education of exceptional children prior to their submission to duly constituted authorities; and
4. make an annual report to the governor, the general assembly, the state board of education and the director of the department of education. The report must be available to the news media for public information purposes. Funds for the publication of this report must be made available by the department of education from its regular appropriations. Available federal and/or state funds may be used for this purpose. (Act 102 of 1973) (L)

Class Size:	NUMBER OF PUPILS Minimum	NUMBER OF PUPILS Maximum
EDUCABLE MENTALLY HANDICAPPED		
Special Class	5	15
Special Class (Home Economics)	5	10
TRAINABLE MENTALLY HANDICAPPED	5[3]	8
LEARNING DISABLED		
Special Class	5	25[5]
Resource Program	-	15 per day
AURALLY HANDICAPPED		
Special Class	6	10
Integrated Program	8	12
Resource Program -- Speech Therapy	8	12
Itinerant Speech Therapist	75	100[6]
DEAF		
Special Class	6	10
Special Class (with integrated placement for art, physical education, music)	8	12
Resource Program for lipreading, auditory training	8	15

[3] Class size may be adjusted downward when multiply handicapped pupils are enrolled, usually on a 2:1 basis. Each multiply handicapped child is counted as 2 pupils.

[4] To conduct therapy sessions at no more than 6 different centers

[5] Ten with aide

[6] To work at no more than 6 different centers

PRIVATE

The responsibility of local governments, school districts, and the state, to provide a free public education for handicapped children is not diminished by the availability of private schools and services. Whenever such schools and services are utilized, it continues to be the responsibility of the department of education to assure an appropriate quantity and quality of instructional and related services, and the protection of all other rights, and to ascertain that all handicapped children receive the educational and related services and rights to which the Law of this state entitles them. **(Act 102 of 1973) (L)**

Deaf-blind children are eligible for private placement. See Services. **(L)**

No funds are to be given to programs outside Arkansas. **(Op. Att'y. Gen., July 2, 1971)**

Local school agencies have the authority to contract with organizations licensed under MR-DDS to provide the services if the organizations meet all the standards established by the Arkansas Department of Education. **(Op. Atty. Gen., September 7, 1973)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Certificate No. 9

Teacher of mentally retarded or physically handicapped need Certificate No. 5 -- Elementary, valid for grades 1-8, bachelor's degree or including general education 48 hours professional education 18 hours or Certificate No. 6 -- High school, valid for grades 7-12, bachelor's degree including general and professional education as for Certificate No. 5, except prescribed areas must be in the secondary field and methods and student teaching must be in major or minor area.

Both Certificate Nos. 5 and 6 must also have specialized courses including: (3 hours) Education of Exceptional Children, Nature and Needs of Physically Handicapped or Mentally Retarded, 3 hours, Methods for Area, 3 hours, Speech and Language Development 3 hours, Directed Technology 6 hours, and appropriate electives 6 hours.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area

STATE PROFILE

CALIFORNIA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

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*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year." **(Art IX, Sec. 5, Cal. Const) (L)**

Compulsory Attendance Law: Children whose physical and mental condition prevents or renders inadvisable school attendance or application to study are exempted from the compulsory education requirement, but the governing board of the school district may require satisfactory evidence of the condition to be furnished. **(Sec. 12152, Cal. Ed. Code) (L)**

The administration of each private school and public school district of any county must, upon severing the attendance of or denying admission to any child who is physically handicapped, mentally retarded, multiple handicapped or otherwise subject to the compulsory education laws, report such "severance, expulsion, exclusion, exemption, transfer, or suspension" lasting more than 10 days to the county superintendent. The report must include names, ages, last known addresses, and the reasons for the action. The county superintendent is responsible for examining reports and drawing the attention of the county board or local school district board to any cases in which the interest of the child or the welfare of the state may need further examination. After preliminary study of available information the county board may, on its own action, hold hearings on these cases in the manner prescribed by law. **(Sec. 12104, Cal. Ed. Code) (L)**

Any child who is blind, deaf, partially blind, or hard of hearing to such an extent that he is incapable of receiving instruction in regular elementary or secondary schools, but whose mental condition permits application or study, is exempted from the compulsory attendance requirements if he is a resident of a city and county school district not maintaining appropriate special classes, and if he is ineligible for admission to the state schools for the blind or the deaf. The county superintendent must approve the exemption. **(Sec. 12156, Cal. Ed. Code) (L)**

All parents, guardians or other persons having control of any child between the ages of five and 20 who (because of deafness or impaired hearing) is unable to benefit by regular public school instruction, shall send the minor to a school or class for the deaf maintained by the school district or by the state for a full school year. The child must attend the school or class until completion of the prescribed course of study or until discharged by the principal or any other person in charge of the school or class with the approval of the governing board. **(Sec. 12801, Cal. Ed. Code) (L)**

Responsibilities: Any mentally retarded, physically handicapped, or multiply handicapped minor is entitled to training or an education free of charge in the public schools of this state. **(Sec. 6920, Cal. Ed. Code) (L)**

In *Burnstein v. Board of Education of Contra Costa County*, the plaintiffs include autistic children denied public school placement due to lack of classes and five autistic children in regular classes. The defendant is the Board of Education of Contra Costa County. It is alleged that services were denied plaintiffs until the defendant was threatened with a lawsuit. Plaintiffs in second group were placed in special education programs, but not those programs for autistic children. Petitioners requested court to command school board to provide special classes. The suit, filed December 30, 1970, is expected to go to the California Superior Court in 1972. No decision has yet been rendered. (lawsuit)

In *Case v. California* the plaintiff, Lori Case, was diagnosed as autistic, deaf, and possibly mentally retarded. The defendant in the lawsuit is the State of California. The plaintiff was enrolled in the California School for the Deaf at Riverside in May, 1970, a unit geared to educating deaf children with additional handicaps. Defendants dispute the fact that she made progress and terminated her placement, alleging severe mental retardation and the inability of the school to provide the extensive instruction plaintiff needed. Plaintiffs sought an immediate restraining order and a preliminary and permanent injunction restraining defendants from interfering with Lori's education at Riverside. The case was filed January 7, 1972, and a temporary restraining order was granted the same day. A preliminary injunction was granted January 28, 1972; and trial was held September 5, 1972. The judge ruled that defendants had acted legally in dismissing Lori and disolved the earlier preliminary injunction. An appeal is now in process in the Fourth Appellate District of the California Court of Appeals. (lawsuit)

In *David P. v. State Department of Education* the plaintiffs are two brothers, David P. age 12 and Michael P. age 11, who possess neurological disabilities that impair their perceptual skills. They also represent a class of minors denied adequate special education. The defendants include the state department of education, state board of education, the superintendent of public instruction, the superintendent and board of the South San Francisco Unified School District, and the superintendent of schools of San Mateo County. David P. has been certified as an educationally handicapped minor who has not been placed in a special program. Michael P.'s application has seen no action and placement prospects are dim for both. Plaintiffs challenge regulation limiting enrollment in special programs to 2% of the total district enrollment, charging it is a violation of equal protection under the state constitution, and that placement in a regular program is, in fact, a denial of education. Plaintiffs seek injunctions requiring defendants to provide special education programs for educationally handicapped minors and demand hearing and review procedures. The case, filed April 9, 1973, is still pending. (lawsuit)

In *Uyeda v. Department of Education*, the plaintiff, Craig Uyeda, is a profoundly deaf 10-year old boy. The California School for the Deaf at Riverside and its superintendent, Dr. Richard Brill, and the associate state superintendent of special education are the defendants. Plaintiff claims that in September of 1971 Craig was transferred from the regular program at Riverside to the multi-handicapped unit because of behavior problems. When defendants decided to terminate him in May, 1972, alleging he was a danger to others, plaintiff claimed a violation of funds and mental rights since under state law, all children have equal protection and benefits. The plaintiff sought an injunction preventing interference with his education and cost of the suit. The suit is still pending. In June, 1972, the court enjoined defendants from dismissing Craig and ordered them to show cause why preliminary injunction should not be granted. (lawsuit)

POPULATION

Definitions: "Any minor who, by reason of a physical impairment, cannot receive the full benefit of ordinary education facilities, shall be considered a physically handicapped individual for the purposes of this chapter. Such minors include the following as defined by the state board of education: a) the deaf or hard of hearing; b) the blind or partially seeing; c) orthopedic or health impaired; d) the aphasic; e) the speech handicapped; f) other minors with physical illnesses or physical conditions which make attendance in regular day classes impossible or inadvisable; g) minors with physical impairments so severe as to require instruction in remedial physical education; and h) multi-handicapped." **(Sec. 6802, Cal. Ed. Code) (L)**

"'Physically handicapped' as used in this article (commencing at Sec. 6801) means a physically defective handicapped person under the age of 21 years who is in need of education." **(Sec. 6801, Cal. Ed. Code) (L)**

"As used in this chapter, 'educationally handicapped minors' are minors other than physically handicapped minors (as defined in Sections 6801 and 6802 of this code) who, by reasons of marked learning or behavioral problems or a combination thereof, cannot receive the reasonable benefit of ordinary educational facilities." **(Sec. 6750, Cal. Ed. Code) (L)**

A minor is deaf if he comes within any of the following descriptions:

1. "He has a hearing loss in his better ear that is from 70 decibels in the speech range to inability to distinguish more than two frequencies at the highest measurable level of intensity, with the result that he cannot understand and acquire speech and language through the sense of hearing, even with sound amplification."
2. "He has a hearing loss in his better ear that averages 50 or more decibels in the speech range, and because he has had a sustained loss from babyhood or very early childhood, does not learn language and speech through the unaided ear."
3. "In the combined opinion of a hearing specialist and a qualified educator, he would benefit from the special educational facilities provided for deaf minors." **(R)**

A minor is severely hard of hearing if he comes within any of the following descriptions.

1. "He has a hearing loss in his better ear that is from 45 to 70 decibels in the speech range and, as a result, suffers delayed speech and language development to such an extent as to hamper his progress in a regular classroom at a rate commensurate with his intellectual ability."
2. "He has a hearing loss in his better ear that averages more than 30 decibels in the speech range, the loss was sustained in babyhood or early childhood, and it has resulted in delayed speech and language development."
3. "He has a hearing loss in his better ear that averages more than 30 decibels in the speech range, the loss has been diagnosed by a licensed physician and surgeon to be progressive in nature, and the minor, because of delayed speech and hearing development, has need for placement in a special day class or integrated program." **(R)**

A minor is moderately hard of hearing when all of the following statements apply to him: he has a hearing loss in the better ear of from 20 or 40 decibels in the speech range; his speech or language is impaired and such impairment presumably is associated with his hearing loss; his hearing loss interferes with his progress in a regular classroom; his individual and educational needs indicate placement in a remedial class; and a licensed physician and surgeon, audiologist, or teacher (or specialist) holding a credential in the area of the speech and hearing handicapped, has assessed the extent of the minor's hearing impairment and has recommended that he receive remedial instruction. **(R)**

A minor is aphasic and/or other severely orally language handicapped when all of the following statements apply to him or her: "the minor has a severe disability in the comprehension and/or expression of oral language. A minor may be considered to have a severe oral language disorder when: the minor shows normal intellectual potential as measured by instruments that do not require oral directions or oral expression; the minor's score on the auditory verbal scales of one or more standard tests or sub-tests of language assessment falls two standard deviations below the mean for the minor's mental age as indicated above except that any minor above the two standard deviations but below one standard deviation may be designated as an aphasic and/or other severe oral language handicapped if agreed upon with the unanimous decision of the admission committee; the minor is nonverbal or when a spontaneous language sample of at least 50-100 utterances can be obtained, the sample shows development indices clearly inadequate for the minor's age in at least two of the following areas of language development: syntactic, semantic, morphologic, phonologic; the disability is of such severity as to require enrollment in a special day class, intensive remedial instruction, an integrated program of instruction, or instruction under Education Code Sections 6870-6874.6." **(R)**

Aphasia and/or other severe oral language handicap is evidenced by written statements certifying that the minor has a severe speech and/or oral language disorder, not due to deafness, mental retardation, or autism. This determination of aphasia and/or other severe oral language handicap shall be made in written statements by personnel in each of the following specific professional capacities:

1. A teacher credentialed in the area of the speech and hearing handicapped, or a credentialed speech and hear-
ing specialist, or a speech pathologist who holds certification in speech pathology in the American Speech and
Hearing Association shall determine that the child has an aphasic and/or other severe oral language disorder
and the condition is not primarily due to deafness.
2. A credentialed or licensed psychologist or licensed educational psychologist shall determine the child's intel-
lectual and emotional capabilities and shall determine that the condition is not due to mental retardation or
autism.
3. A licensed physician who has training and/or experience with children who have neurological disorders shall
determine if neurological dysfunction or other physical disorders exist and how these disorders may be as-
sociated with aphasia and/or other severe oral language handicaps. **(R)**

A minor, exclusive of the deaf, severely hard of hearing, moderately hard of hearing, and aphasic as defined here-
in, is speech handicapped if he is identified by a teacher or specialist holding a credential authorizing the teaching
of speech and hearing handicapped minors as having abnormality of speech and oral language calling adverse atten-
tion to itself, impairing communication or causing maladjustment arising out of problems with articulation, rhythm,
voice or oral language usage. **(R)**

Mentally retarded minors are all minors who because of retarded intellectual development as determined by individual psychological examination aren't capable of being educationed efficiently and profitably through ordinary classroom instruction."

Mentally gifted minors is a minor enrolled in a (California) public primary or secondary school . . . who demonstrates such general intellectual capacity as to place him within the top 2% of all students having achieved his school grade throughout the state or who is otherwise identified as having such general intellectual capacity but for reasons associated with cultural disadvantages has underachieved scholastically."

Age of Eligibility:

If classes are established, physically handicapped minors may begin receiving services at age three.

If the school district of the residence of a child between the ages of three and six who is deaf, blind, orthopedic,
or other health impaired, aphasic, or multiple handicapped does not maintain a special class in the child's appro-
priate category, but a class or school is maintained by the county superintendent or by another school district, the
child may be admitted to that program when all the following circumstances exist: a) the child is eligible for enroll-
ment under the regulations of the county superintendent or a local governing body, b) the governing board of the
district or the county superintendent maintaining the classes is willing to admit the child, and c) the parents of the
child file a written request for admission into the program and a physician's statement showing that the child is
physically able to attend the class. The request and statement must be filed with the superintendent of schools con-
ducting the class. **(Sec. 6809, Cal. Ed. Code) (L)**

Multiple handicapped children are eligible for services between the ages of three and 21. See Services. **(Sec. 6812.1, Cal. Ed. Code) (L)**

The Department of Education is within the law in refusing to classify mildly neurological impaired or brain damaged children as physically handicapped. These children do not exhibit obvious physical or mental disabilities, such as the blind or mentally retarded, and thus are not entitled to special education funds.
(Op. Att'y. Gen., December 27, 1962)

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: In order to complete sufficient information regarding the handicapped and in order to assure that these
children receive educational programs, the governing board of each school district by April 30 of each year will re-
port to the appropriate county superintendent those handicapped children in either of the following categories:
handicapped children participating in special classes or programs in the school district, or handicapped children not
covered in programs, but whose parents, guardians, or other person having control of them have applied to the
school district for enrollment of the child in a special class, school, or program. If the child was denied enrollment
the report shall state this fact. The word "applied" includes an interview by district personnel with the parents,
guardian, or any other person having control or charge of the child. **(Sec. 6942, Cal. Ed. Code) (L)**

The required reports may be limited to the particular programs in which a child can participate and the numbers
participating in each. The reports required for the second shall contain the following information relative to each
child reported: name, address, date of birth, name of parents, guardians, or other person having control or charge
of the child, handicap of the child as far as known to the school district, and special class, school, or program, if
any, in which a child is enrolled and report of any suspensions of 10 days or more or expulsions from a special
class, school, or program. **(Sec. 6943, Cal. Ed. Code) (L)**

By June 30 annually, county superintendents report for the present fiscal year to the superintendent all handi-
capped children in the county under jurisdiction (including those children participating in a special class or program
provided by the county superintendent and those children not participating) for whom application for enrollment
has been made by the parents, guardian, or other person in charge or control of the child. The report will contain
the same information as mentioned in the previous paragraph and shall also specify the school district which sub-
mitted the information to the county superintendent. **(Sec. 6944, Cal. Ed. Code) (L)**

All attending or consulting physicians examining any child under age 20 who is totally deaf or has impaired
hearing will report at once to the department of education the name, age, and residence of the child and name of
the parent or guardian of the child. **(Sec. 12802, Cal. Ed. Code) (L)**

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SERVICES

Screening: Governing boards of school districts will make the rules and regulations for examining public school children to assure care of the pupils and secrecy in connection with any noted defects by the supervisor of health or his assistant and may lend to the correction of the physical defect. **(Sec. 11821, Cal. Ed. Code) (L)**

If the parent or guardian having control or charge of any child enrolled in the public schools files annually with the principal of the school (in which the child is enrolled) a statement in writing noting that he will not consent to a physical examination of his child, the child is exempt from any physical exam. If there is any good reason to believe that the child is suffering from a recognized contagious or infectious disease, he shall be sent home and not be permitted to return to school until the school authorities are satisfied that the disease no longer exists. **(Sec. 11882, Cal. Ed. Code) (L)**

School districts shall provide for sight and hearing testing of public school children. The tests will be given only by qualified supervisors of health employed by the district, by certified employees of the district, the county superintendent of schools possessing the qualifications prescribed by the commission for teacher preparation and licensing, by contract with an agency authorized by the county superintendent under state board guidelines, or an accredited school or college of optometry, osteopathy, or medicine. Test records will serve as evidence of the need of children for the education services provided physically handicapped individuals. Equipment necessary to conduct the test may be purchased or rented by governing boards. The state, agency, or political subdivision of the state may sell or rent any equipment owned by it to the governing board of any school district upon mutually agreeable terms. **(Sec. 11823, Cal. Ed. Code) (L)**

Persons employed by school districts in positions requiring certified qualifications and holding valid special credentials authorizing the teaching of lipreading to the deaf and hard of hearing, or a standard teaching credential with specialized preparation in the area of the deaf and hard of hearing, or in the area of the speech and hearing handicapped may test the hearing of pupils in the district through the use of an audiometer. **(Sec. 11824, Cal. Ed. Code) (L)**

If a physical defect, other than visual, has been noted by a supervisor of health or his assistant, the parents or guardian of the child will be notified and asked to take any action to cure or correct the defect. The report must be made in writing and in a form approved by the superintendent of public instruction. The report will not include any recommendations suggesting directing pupils to a designated individual for the purpose of curing or correcting any defects referred to on the report. If a visual defect has been reported by the superintendent of health or his assistant, a report will be made to the parent or guardian asking the parent or guardian to take any action necessary to correct the defect. Again, the report must not include any recommendations suggesting directing the pupil to a designated individual or class of practitioner to correct the defect. A supervisor of health may recommend in the written report that the child be taken to a public clinic or diagnostic and treatment center operated by a public hospital by the state, county, or city department of public health. The supervisor will also make periodic reports that he feels necessary to the governing board or that the board may call for showing the number of defective children in the schools of the district and the efforts made to correct such defects. **(Sec. 11827, Cal. Ed. Code) (L)**

The state board of education requires that uniform tests be given to determine the achievement of basic reading fundamentals and skills to all children completing the first and second grades. The children determined to be mentally retarded are exempted from this testing. Those who have been determined to be educationally handicapped are subject to the testing requirement but will be tested separately from regular pupils, and the test scores or results will be submitted separately. The department of education will also annually report to the legislature the scores and results of the tests administered to educationally handicapped pupils. **(Sec. 5779, Cal. Ed. Code) (L)**

When a child first enrolls in a California elementary school and every third year thereafter until he completes the eighth grade, the child's vision will be tested by the school nurse or another authorized person. The evaluation must include tests for visual acuity in color vision. Gross external observation of child's eyes, visual performance, and perception tests will be conducted by the school nurse and classroom teacher. The evaluation may be waived if the child's parents present a certificate from a physician, a surgeon, or an optometrist setting out the results of a determination of a child's vision, including visual acuity in color vision. If a child's parents or guardian file, with the principal of the school, a statement in writing, that they adhere to the teachings of any well-recognized religious sect or denominational organization and that its creed, tenants, or principals depend upon healing by prayer in the practice of their religion, the child will be exempt from the requirement. **(Sec. 11825, Cal. Ed. Code) (L)**

Testing and screening of all pupils in a particular grade, school, or district is not a condition of eligibility for state aid. If the governing boards of the school districts elect to do the testing or screening, only tests or screening procedures approved by the state board may be used. The school districts intending to do such testing or screening must given written notice to the parents or guardian of pupils concerned at least 15 days prior to the testing or screening. The copies of any written instruments to be used for the testing and screening must be available in the office of the principal of the school the pupils attend for examination by the parents or guardian. No child is required to participate in the screening or testing unless the parent or guardian files prior written consent. **(Sec. 6758, Cal. Ed. Code) (L)**

Assessment and Placement: If a principal of a school reports that a pupil shows evidence of impaired mental health and a mental examination is felt necessary, the governing body of a school district may, with the written consent of the child's parents or guardian, provide for this examination. The principal is not liable for damages or for any civil or criminal penalty for any report made in good faith. **(Sec. 11801, Cal. Ed. Code) (L)**

The governing boards of school districts will make the necessary rules for mental examinations to assure proper care of the child and confidentiality in connection with any condition of impaired mental health noted by the supervisor of health or his assistant. Governing boards may consult and cooperate with the department of mental hygiene to formulate rules and regulations regarding the correction of any mental conditions. The department of mental hygiene will cooperate in aiding and assisting school districts in carrying out these duties. **(Sec. 11802, Cal. Ed. Code) (L)**

If evidence of impaired mental health is noted by the supervisor of health or his assistant, a report will be made to the parent or guardian of the child asking the parent or guardian to take any necessary action to cure or correct the condition. The report must be made in a form approved by the superintendent and may not include any recommendations suggesting or directing the pupil to a designated individual or class of practitioner to cure or correct any condition referred to in the report. This does not prevent the supervisor of health from recommending in a written report that the child be taken to a public clinic or diagnostic or treatment center operated by a public hospital or by a state, county, or city department of public health. **(Sec. 11803, Cal. Ed. Code) (L)**

No officer or employee of a school district, county superintendent of schools or any of his employees, or any member of the county board or any of the employees will place or participate in placing a public school child in any private or public agency, institution, or place outside of the school of attendance for psychological or psychiatric treatment, or both, without prior written consent of the parent or guardian. **(Sec. 11804, Cal. Ed. Code) (L)**

No psychological or psychiatric treatment may be administered to a pupil at his school of attendance or at a place outside of the school without the written consent of the parent or guardian. **(Sec. 11801, Cal. Ed. Code) (L)**

Governing boards of any school district may contract with a mental health clinic or child guidance clinic to furnish the district with mental health services for its pupils. "Mental health and mental health services" does not express or imply legislative intent with regard to other health services. Terms and conditions governing the provision of these services are set forth in the contract. Payments may not be made by the district for services performed by persons not possessing credentials issued by the state board covering these services. If the conditions of the contract have been fulfilled, the cost of services rendered under such a contract may be paid from funds of the district. The governing board of any city, county, or district maintaining a public mental health clinic or child guidance clinic or non-profit health clinic may enter into such an agreement. **(Sec. 11805, Cal. Ed. Code) (L)**

Children will be admitted to programs for the educationally handicapped only on the basis of an individual evaluation according to state board standards and on the recommendation of an admission committee. The admission committee includes an administrator in charge of special education in the school district or county, an administrator designated by the school district, or county superintendent of schools, an experienced special education teacher, a school nurse, and a school psychologist who has examined the child for eligibility for placement. The admission committee will use any necessary health reports to properly evaluate the child. The committee may also have the services or presence of other pupil personnel workers, education specialists, school nurses, social workers, optometrists, or physicians that they may require and/or request.

The parent or guardian of a child being evaluated for placement in a program for the educationally handicapped may select a physician, optometrist, psychologist, social worker, or teacher, whether certified or not, to assist the admission committee in its deliberations. This representative will have no decision making power with the committee. The recommendation for placement must include a statement that, in the professional judgment of the members of the committee, the child is recommended for placement in a program for educationally handicapped minors to ameliorate a marked learning disability associated with a neurological handicap or emotional disturbance or both. Any member of the admission committee dissenting from the final committee recommendation shall attach to the final recommendation a statement of reasons for his objection.

The administrative head of a school district or office of the county superintendent may make an interim placement of a pupil in a program for the educationally handicapped for a period not exceeding 90 days whenever a pupil transfers into the school district from another district in which his last enrollment was in a program for the educationally handicapped. An interim placement may be made without the complete documentation specified above. Before expiration of the 90 days, the interim placement must be reviewed by the admission committee and a final recommendation made. The committee may utilize information, records, and reports from the admission committee proceedings of the school district or county program from which the pupil was transferred. **(Sec. 6755, Cal. Ed. Code) (L)**

Admission committees shall annually review placement of minors in special educational programs for educationally handicapped children and submit recommendations regarding the return of these children to the regular school program, continuance in the program for the educationally handicapped, transfer to other special education programs, or referral to other agencies. **(Sec. 6755.1, Cal. Ed. Code) (L)**

If a minor is being evaluated for placement in a program for the educationally handicapped by an admission committee or a review and recommendation procedure is being conducted by an admission committee, the parent or guardian of the child has the right to have a physician, optometrist, psychologist, social worker, or teacher, whether certified or not, represent the minor and present any additional material to assist the admission committee in making its determination. This representative may be an employee of the school district, but has no decision making power in the admission committee's determination. **(Sec. 6755.2, Cal. Ed. Code) (L)**

No minor is required to participate in a program for the educationally handicapped unless the admission committee or a member of the admission committee, appointed by the committee, has personally consulted the parent or guardian of the child regarding the child's learning disorders and the objectives of the program. The parent or guardian, subsequent to such counseling, but prior to the child's participation in the special education program, must file written consent to the child's participation with the governing board of the school district or with the office of the county superintendent. **(Sec. 6755.3, Cal. Ed. Code) (L)**

The state board will adopt rules and regulations and prescribe standards for the individual identification and evaluation of educationally handicapped children and their admission to special education programs. In arriving at the standards, the state board will receive assistance from an advisory committee consisting of one member each from the state departments of education, mental hygiene, public health, and any members appointed by the heads of the respective departments. The advisory committee may have additional members appointed by the state board. **(Sec. 6756, Cal. Ed. Code) (L)**

No teacher, principal, employee, or governing board member of any public, private, or parochial school, including colleges and universities, shall permit access to any written records of any particular child enrolled in the school to any person except under judicial process unless the person is one of the following:

1. A parent or guardian of the child.
2. A person designated in writing by the pupil, if he is an adult, or by the parent or guardian of the child if he is a minor.
3. An officer or employee of a public, private, or parochial school where the pupil attends, has attended, or intends to enroll.
4. [illegible] including a probation officer, parole officer, or a member of a parole

5. State superintendent of public instruction, or a member of his staff or the county superintendent of the county where the pupil attends, has attended, or intends to enroll, or a member of his staff.

These restrictions are not intended to interfere with the preparation and distribution of junior college, college, and university student directories, or with furnishing lists of names and addresses and telephone numbers of junior college, college, and university students to proprietors of campus housing. Also the restrictions are not intended to interfere with the giving of information by school personnel concerning participation in athletics or other school activities, or for school activities, or for scholastic or other honor awards. A governing board, at its discretion, may provide information to the staff of a college, university, educational research and development organization, or laboratory, if the information is necessary to a research project or study conducted, sponsored, or approved by a college or university, educational research and development organization, or laboratory. However, no pupil is to be identified by name in the submitted information. An employer or potential employer may be furnished the age and scholastic record of the pupil. An employment recommendation is prepared by members of the school staff. Rosters or lists containing names and addresses of seniors in public, private, or parochial high schools or junior colleges may be furnished private businesses, professional schools and colleges. **(Sec. 10751, Cal. Ed. Code) (L)**

ADMINISTRATIVE RESPONSIBILITY

The department of education will establish minimum standards for all special schools and classes and will enforce these standards throughout the state. **(Sec. 6803, Cal. Ed. Code) (L)**

The superintendent will promote and direct special instruction in the public schools for physically handicapped minors. He may employ necessary personnel and perform any other duties necessary to fulfill the provisions of the article. **(Sec. 6803, Cal. Ed. Code) (L)**

The state department may prescribe minimum standards for special education for physically handicapped children. No state funds will be granted by the superintendent to any district for physically handicapped children unless they comply with state standards. **(Sec. 6804, Cal. Ed. Code) (L)**

The superintendent will prescribe procedures for qualifying for and determining the amount of allowance for special and regular day classes and for authorized instruction other than in special or day classes for physically handicapped children. **(Sec. 6816, Cal. Ed. Code) (L)**

The governing board of a local school district may establish regulations determining who can profit by and who shall receive the special instruction provided for physically handicapped children. These regulations will be standards prescribed by the state department of education. **(Sec. 6811, Cal. Ed. Code) (L)**

Coordinative, consultant, and supervisory services will be provided by the superintendent of public instruction for programs for multiple handicapped children, and personnel shall be employed devoting their fulltime to supervising the provision of services to these children. **(Sec. 6803.1, Cal. Ed. Code) (L)**

The state board of education may adopt rules and regulations governing the establishment of programs for preparing physically handicapped and mentally retarded minors enrolled in special day classes for suitable occupations. These programs will provide for physically handicapped and mentally retarded children unable to profit by regular classes of work experience education. **(Sec. 6931, Cal. Ed. Code) (L)**

The director of education shall provide consultant services for the education of hard of hearing children in areas where such services are not available. Services will be provided through an expert in the fields of organization and planning for the education of the hard of hearing. **(Sec. 264, Cal. Ed. Code) (L)**

County superintendents of schools have a primary responsibility for coordinating all special programs maintained by their offices and by the school districts under the jurisdiction of that office for educating the physically handicapped and mentally retarded. County superintendents will undertake necessary measures to assure that all children in the school district territory under their jurisdiction eligible to participate in any special program for physically handicapped or mentally handicapped children are afforded the opportunity to participate in an appropriate program. County superintendents will compile and maintain a tabulation of all children enrolled in every category of the special education program in the school districts under their jurisdiction. They shall also maintain a current list of all physically handicapped and mentally retarded children who have applied for but have been denied access to each category of special education program under his jurisdiction. Consultative and coordinative services to school districts will be provided by the county superintendent with programs for physically and mentally handicapped children. **(Sec. 885.9, Cal. Ed. Code) (L)**

The state board of education is responsible for adopting rules and regulations prescribing the standards for special education programs for the educationally handicapped including but not limited to, individual evaluation of pupils, curriculum content, teacher qualifications for each type of program, provisions for periodic examination, reevaluation, and transfer of educationally handicapped minors participating in each type of special educational program. **(Sec. 6757, Cal. Ed. Code) (L)**

No child is required to take advantage of any special provisions for the physically handicapped if his parents or guardian file a statement with the governing board of the school district showing that the child is receiving an adequate education elsewhere. **(Sec. 6814, Cal. Ed. Code) (L)**

The governing board of any district may make the special provisions that in its judgment are necessary for the education of physically handicapped children. **(Sec. 6801, Cal. Ed. Code) (L)**

Programs for physically handicapped children will be maintained by the county superintendent of schools including programs for the cerebral palsied, orthopedically handicapped, the visually handicapped, and aurally handicapped, who reside in the county and in elementary or unified school districts having an ADA of less than 8000, whenever the districts have not provided nor entered into contract with other districts to provide for such programs. **(Sec. 6759, Cal. Ed. Code) (L)**

The governing board of any school district may provide for any one or more of the special educational programs for the educationally handicapped. Districts with an ADA of 901 or less may contract with the county superintendent to provide the programs. **(Sec. 6751, Cal. Ed. Code) (L)**

The superintendent of public instruction will establish supervisory and consultative services for programs for educationally handicapped children and will employ personnel devoting their entire time to the provision of these services. **(Sec. 6759, Cal. Ed. Code) (L)**

The California school for the deaf is part of the school system, but it derives no revenue from the public school fund. The school is under the administration of the state department of education. **(Sec. 2552 and 2553, Cal. Ed**

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The department of education has the responsibility for prescribing the rules for the government of the schools as well as appointment of the superintendent, other officers, and employees. **(Sec. 25554, Cal. Ed. Code) (L.)**

The schools for the neurologically handicapped are also part of the public school system of the state and derive no revenue from the public school fund. Their objectives are diagnosis and determination of treatment in an educational program essential for children with neurological handicaps. The schools provide temporary services to the children who need educational diagnostic services not available in regular public schools. **(Sec. 26402, Cal. Ed. Code) (L.)**

The schools are under the director of education. He is responsible for prescribing rules for governing the schools, for appointing the superintendent, and for contracting with the University of California or other public or private hospital or school of medicine in order to establish and maintain diagnostic service and treatment centers for neurologically handicapped children. **(Sec. 26402-26404, Cal. Ed. Code) (L.)**

PLANNING

There is in the state government the advisory commission on special education consisting of a member of the Assembly appointed by the Speaker of the Assembly, a member of the Senate appointed by the Senate Committee on Rules, one public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Committee on Rules, one public member appointed by the Governor, and nine public members appointed by the state board of education upon the recommendation of the superintendent of public instruction or the members of the state board of education.

Each public member shall serve at the pleasure of the appointing power. **(H.B. 1526, Sec. 586, Art. 6) (L.)**

The Members of the Legislature appointed to the commission pursuant to Section 586 shall have the powers and duties of a joint legislative committee on the subject of special education and shall meet with, and participate in, the work of the commission to the extent that such participation is not incompatible with their positions as members of the Legislature.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power. **(H.B. 1526, Sec. 586.1) (L.)**

The members of the commission shall serve without compensation, except they shall receive their actual and necessary expenses incurred in the performance of their duties and responsibilities, including traveling expenses. **(H.B. 1526, Sec. 586.2) (L.)**

The superintendent of public instruction or his representative shall serve as executive secretary to the commission. **(H.B. 1526, Sec. 586.3) (L.)**

The commission shall select one of its members to be chairman of the commission. **(H.B. 1526, Sec. 586.4) (L.)**

The commission shall study and provide assistance and advice to the state board of education in new or continuing areas of research, program development, and evaluation in special education. **(H.B. 1526, Sec. 586.5) (L.)**

As used in this article, "commission" means the advisory commission on special education. **(H.B. 1526, Sec. 586.6) (L.)**

An annual commission on special education is established so that new and continuing areas of research, program development, and evaluation in special education may be studied. The committee is composed of the coordinator of the joint doctoral program for each college and university conducting special programs, the chief of the division of special education, a specialist in special education chosen by the chief of the division, a physician and surgeon licensed by the board of medical examiners for the Neuropsychiatric Institute, UCLA Medical Center, chosen by the regents of the University of California; a physician and surgeon licensed by the board of medical examiners from the Langley Porter Neuropsychiatric Institute at the University of California Medical School Center in San Francisco, chosen by the regents of the University of California, and a member of the California State Federation of the Council for Exceptional Children, chosen by the president of that organization. **(Sec. 18104.1, Cal. Ed. Code) (L.)**

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FINANCE

The superintendent of public instruction is allowed to grant to county school service funds, in addition to all other allowances, state funds:

1. for all emergency schools maintained in each elementary school district of the county by the county super- intendent of schools.
2. for all special schools or classes for mentally retarded and severely mentally retarded children maintained in each elementary school district of the county by the county superintendent of schools.
3. for all elementary schools maintained in juvenile halls, juvenile homes, and juvenile camps by the county superintendent of schools, and
4. for schools and classes for educationally handicapped children maintained in each elementary school district of the county by the county superintendent the same amount as he would compute the foundation pro- gram of the elementary school district under **Sections 17655.5 and 17656**. No reimbursement may be given for emergency schools in excess of the actual expense of maintaining the school. **(Sec. 18355, Cal. Ed. Code) (L)**

The superintendent will prescribe the procedures for qualifying for and determining the amount of the allowances for special or regular day classes and for instruction other than special or regular day classes for the mentally retarded. **(Sec. 6913, Cal. Ed. Code) (L)**

The maximum tax rate of the school district for any school year may be increased by an amount determined by the governing board of the school district that has entered into an agreement with another district or with the county superintendent for educational services and facilities, including the rental of property or purchase of equip- ment for educable and severely mentally retarded minors. Minimum amounts will be included in the budget for the purchase or improvement of school facilities. Budget expenditures may include the cost of equipment and facilities, lease or lease-purchasing of buildings, lease of equipment, alterations or additions to existing buildings or other necessary capital outlay expenditures in connection with such educational services. If, at the end of the school year, there remains an unencumbered balance derived from the revenue of the increase in the tax rate, the balance will be used exclusively for such expenditures in the following fiscal year. **(Sec. 6913.1, Cal. Ed. Code) (L)**

Whenever a school district maintains special training schools or classes for the mentally retarded, or special schools or classes for the education of physically handicapped children, the governing board of the school district may ap- ply to the superintendent of public schools for an apportionment pursuant to Secs. 6914 to 6919. **(Sec. 6914, Cal. Ed. Code) (L)**

If physically handicapped pupils are given instruction at home or in a hospital, or if children with speech dis- orders or defects are admitted at the age of three for individual or small group instruction of four pupils or less at the school, each clock hour of instruction devoted to the instruction will count as one day attendance. No pupil will be given individual instruction for more than three hours in any one day or credited with more days of atten- dance for individual instruction during any fiscal year than the number of legal calendar school days that school may be maintained during such year. **(Sec. 11202, Cal. Ed. Code) (L)**

Attendance of educationally handicapped minors in special day classes who attend the school for the number of minutes that constitute a minimum school day shall be credited as a day of attendance. Each clock hour of teaching time devoted to individual instruction of educationally handicapped minors shall count as one day of instruction. The average daily attendance of all educationally handicapped minors will be computed by dividing the total num- ber of days of attendance of the pupils by the number of days taught in the regular schools of the district. **(Sec. 11226, Cal. Ed. Code) (L)**

The superintendent will allot each school district or county superintendent of schools for the education of physi- cally handicapped children during the current school year the amount computed as follows:

1. Dividing the average daily attendance of physically handicapped children by the maximum class size estab- lished by law for such classes and increasing the quotient to the next highest integer if a fractional amount is produced;
2. Multiplying the amount computed above by a total support guaranty of $17,260; and
3. Subtracting from that amount any of the applicable following amounts: (a) the product of the average daily attendance (**ADA**) of physically handicapped minors in classes kindergarten through grade eight and the foundation program per pupil established in the elementary school district with an **ADA** of 900 or more; and (b) the product of the **ADA** of physically handicapped in grades nine to 12 and the foundation program per pupil established for high school districts with an **ADA** of 901 or more; (c) the product of the **ADA** of physi- cally handicapped children in grades 13 and 14 and the foundation program per pupil established for junior college districts with an **ADA** in excess of 1000. **(Sec. 18102, Cal. Ed. Code) (L)**

State aid for the educationally handicapped will be computed as follows:

1. Divide the **ADA** of educationally handicapped children by the maximum class size and increase the quotient to the next highest integer if a fractional amount is produced;
2. Multiply the amount computed by the total above by a total support guaranty of $16,260; and
3. Subtract from the amount computed the applicable of the following: (a) product of the **ADA** of educationally handicapped children in kindergarten through grade eight and the foundation program per pupil established for elementary school districts with an average daily attendance of 901 or more; (b) product of the **ADA** of educationally handicapped children in grades nine to 14 and the foundation program per pupil established for high school districts with an **ADA** of 900 or more; (c) product of the average daily attendance of physi- cally handicapped children in grades 13 and 14 and the foundation program per pupil for junior colleges with an average daily attendance in excess of 1000. **(Sec. 18102, Cal. Ed. Code) (L)**

The governing board of school districts with an **ADA** of less than 2000 or a county superintendent of schools may seek the approval of the superintendent of public instruction whenever sparsity of population or transportation distances make it impossible to maintain maximum class sizes or maintain smaller classes. If the superintendent, upon review, finds that it is impossible to maintain maximum class sizes, he may add to the amounts allowed above an amount sufficient to provide for the needed classes but not more per class than the applicable amounts for classes with maximum class size. **(Sec. 18102.8, Cal. Ed. Code) (L)**

Attendance of educationally handicapped minors instructed by the county superintendent will be computed as follows:

1. Attendance of elementary pupils in special classes for educationally handicapped children will be credited to the county school service fund as attendance "upon a single emergency elementary school for special class instruction of these pupils." Attendance of pupils of secondary grade in classes maintained for educationally handicapped children will be credited to the county school service fund and "attendance upon a single emergency secondary school for special class instruction for such pupils."
2. Attendance of elementary pupils in learning disability groups will be credited to the county school service fund as "attendance upon a single emergency elementary school for learning disability group instruction of educationally handicapped minors." Attendance of secondary pupils will be credited in the same manner to the emergency secondary school for learning disability group instruction of secondary pupils will be credited in the same manner to the emergency secondary school fund.
3. Attendance of elementary pupils given instruction in a home, hospital, or regularly established licensed children's institution will be credited to the county school service fund as "attendance upon a single emergency elementary school for home, hospital or regularly established licensed children's institution for instruction of educationally handicapped minors." Attendance of pupils of secondary grade will be credited in the same manner as a single emergency secondary school. **(Sec. 11229, Cal. Ed. Code) (L)**

Districts maintaining programs for educationally handicapped children may not enroll at any one time more than two percent of total district enrollment, except as permitted by special authorization of the superintendent of public instruction. The total district enrollment means the average number of pupils exclusive of pupils receiving home instruction and tuition students enrolled at the first school month and the sixth school month of the school year.

The superintendent will report to each regular session of the legislature: 1. the school districts and county superintendents of schools permitted to exceed the two percent during the preceding school year; 2. the number of additional pupils involved, and 3. the causes resulting in granting the permission.

County superintendents of schools maintaining schools in juvenile halls or juvenile homes, ranches, or camps (as authorized by the welfare and institutions code) will not enroll at any given time more than two percent of the juvenile population in these institutions in programs for the educationally handicapped. Except as permitted by the superintendent, the two percent limitation does not include pupils participating in a program who reside in a non-profit tax exempt residential facility. **(Sec. 6752, Cal. Ed. Code) (L)**

When school districts provide education in grades kindergarten through 12 for children residing in a regularly established licensed children's institution located within or without the boundaries of the district, the district is reimbursed for the actual cost of educating the children by the county or city and county in which the child resided prior to his admission to the institution. If the child's prior residence cannot be ascertained or if his residence was outside the state of California, the district will be reimbursed for the actual cost of educating the child by the county or city and county in which the institution or family home is located. The pupil residing in an institution or family home under this section does not acquire residence in the district wherein the institution or family home is located during his residence at the institution. **(Sec. 6951, Cal. Ed. Code) (L)**

Claims concerning the attendance of an exceptional child at any school, institution, or agency in which there are an insufficient number of properly certified teachers but which otherwise offer an acceptable education program are allowed if: 1. the department of education has determined that there is in the area served by the school, institution or agency a shortage of certified teachers, and 2. the department of education determines that the needs of the children served by the school, institution, or agency would be more adequately served through an education at that school, institution, or agency than they would be if the child remained in his existing educational environment. If the department determines that there are a sufficient number of properly certified and employable teachers available, the department will require that properly certified teachers be employed by the school, institution, or agency before any claim may be paid for the education of an exceptional child. **(Sec. 6874.6, Cal. Ed. Code) (L)**

The computation of average daily attendance does not include physically handicapped, speech impaired, deaf, or hard of hearing children between the ages of 18 months and three years who are receiving instruction. **(Sec. 11557, Cal. Ed. Code) (L)**

Each district transporting blind, deaf, aphasic, orthopedic or other health impaired, multiply handicapped, mentally retarded, and physically handicapped children who are handicapped in mobility will receive for transporting children to day classes $389 for each unit of average daily attendance. They will receive the same amount for transporting deaf, severely hard of hearing, blind, deaf-blind, or other multiply handicapped pupils to experimental programs for children between the ages of 18 months and three years. County schools service funds will receive $389 for each students in average daily attendance receiving transportation from the county superintendent of schools. In cases where the school districts and the county superintendent of schools furnish transportation to handicapped children requiring vehicles exclusively for that purpose, the superintendent of schools shall allow 75% of any expense in excess of the $389, but the additional allowance cannot exceed $73 per unit of average daily attendance. In no case shall the district receive any amount greater than its total current expense in providing transportation. **(Sec. 18060, Cal. Ed Code) (L)**

Attendance of physically handicapped pupils in a special class for the same number of minutes as constitutes a day of attendance in regular classes of the same grade will constitute a day of attendance. For children over age 16 enrolled in an approved occupational training program or work experience program, each clock hour of teaching devoted to individual instruction of physically handicapped pupils who are instructed at the same time by the teacher in a remedial class conducted by a school district or county superintendent, the total attendance credited uch pupils will equal one unit of attendance for each 60 minutes of instruction. The average daily attendance l physically handicapped pupils will be computed by dividing the total number days of attendance of the pupils ie number of day taught in the regular schools of the district. When a physically handicapped minor 16 years e or over is enrolled in an approved occupational training program, two clock hours of attendance in a special school or class in combination with two clock hours of attendance in an occupational training program will it as one day of attendance. When a physically handicapped minor 16 years of age or over is enrolled in an aped off campus work experience education or work study program, one day of attendance may consist of either wo class hours of attendance and two hours at such a program, or (b) three class hours and one hour in such a ram. No pupil will be credited with more than five days of attendance per calender days each special day school ass is maintained in the school year. **(Sec. 11201, Cal. Ed. Code) (L)**

af, hard of hearing, blind, deaf-blind, and multiply handicapped children receiving services in an experimental ram for children between the ages of 18 months and three years will be credited to the school district of the ity superintendent of schools providing such instruction in the same manner as physically handicapped minors ving special education services between the ages of three and 21. Computations of allowances and apportiont from the state school fund for such children will be credited to the district or the county superintendent in ame manner as other funds for the physically handicapped for children between the ages of three and 21. **(Sec. 2.5, Cal. Ed. Code) (L)**

hool districts having educationally handicapped students receiving special education will report the attendance ie children and submit any claims to the districts for special purpose apportionment to be used in payment to parent or guardian of the minor toward any tuition arising out of the attendance through the county superinent of schools to the superintendent of public instruction. The claims will be submitted at a time and in a manprescribed by the superintendent. The county superintendent will verify the attendance report and claims. **(Sec. 1, Cal. Ed. Code) (L)**

oon verification of the attendance and the claim, the superintendent will apportion to the district submitting eport and the claim of the parent or guardian of the minor for the tuition in question in an amount sufficient itisfy the claim but not in excess of the sum per unit of ADA of the state apportionment to the district for the l year in question, the maximum amount allowable per unit of ADA for reimbursement of excess current exes under Sec. 18060 and 18102. **(Sec. 6772, Cal. Ed. Code) (L)**

ie superintendent of public instruction shall allow the school districts for transporting children whose vision or ing is impaired to a degree making it practical to transport them to the California school for the blind and school the deaf or to some location in another public school district where specialized instruction may be afforded. 9 for each unit of average daily attendance. If they are furnishing transportation in motor vehicles used exclu-y for them the superintendent will allow 75% of any expense in excess of $389, but the additional allowance not exceed $78 per unit of ADA. The amount will be allowed as part of the second principal apportionment er special request and upon approval of the superintendent. **(Sec. 18062, Cal. Ed. Code) (L)**

ie governing board of the district of residence of a child who is a day class pupil at the California school for deaf will pay for the transportation. Pupils 15 years of age or older as of September 1 of each fiscal year will onsidered residents of the high school district and pupils 14 years of age or under will be considered residents he elementary district. **(Sec. 26708.1, Cal. Ed. Code) (L)**

istructional aides shall not be utilized to increase the number of pupils in relation to the number of classroom chers in any school or school district in the state. Class size ratios existing in special education classes may be ntained or decreased but not increased by use of instructional aides. **(Sec. 13599.2, Cal. Ed. Code) (L)**

or all physically handicapped, mentally retarded, and educationally handicapped children of secondary grade cated by the county, the superintendent of public instruction shall allow the same amount as he would compute the foundation program of a high school district. **(Sec. 18358, Cal. Ed. Code) (L)**

he ADA of elementary schools for the district will be computed by excluding the ADA of pupils attending enth and eighth grade or a junior high school maintained by the district. **(Sec. 895.1, Cal. Ed. Code) (L)**

he superintendent of public instruction will prescribe the form and manner of notification of intention to inie a program for the educationally handicapped and will prescribe the procedures for qualifying for state aid for cial day classes of authorized instruction in other than special day classes. **(Sec. 6761, Cal. Ed. Code) (L)**

he application for funds must be made prior to September 1 of each year and must include an estimate of the A that will be credited to the schools, classes, or integrated programs during the school year for which an adce apportionment is requested. The estimate is based on the number of children (residing in the district or in an acent district) who are physically handicapped and who will attend the schools, classes, or integrated programs. **c. 6915, Cal. Ed. Code) (L)**

within 30 days of the application, the superintendent will approve it. He then will apportion to each applicant ool, from the state general fund as an advance against future apportionment from the state school fund, an ount to each district which is equal to the maximum amount allowable for each type of program included in request per unit of ADA to school districts for the excess expense of educating severely mentally retarded ldren and physically handicapped children multiplied by eight and the product multiplied by the number of cial classes or integrated programs maintained by the applicant school district for such minors. **(Sec. 6916, Cal. Code) (L)**

ll monies received by the treasurer of the county under these sections will be credited by the treasurer to the eral fund of the school district of the county exactly as apportioned by the superintendent. **(Sec. 6918, Cal. Ed le) (L)**

uring the next two fiscal years after the fiscal year in which the apportionment is advanced to a school district the state comptroller will deduct from apportionments made to each school district from the state school fund an amount equal to the amount apportioned to the district under Sec. 6914 to 6919 and pay the same into the state general fund. **(Sec. 6919, Cal. Ed. Code) (L)**

Attendance of educationally handicapped children receiving instruction by school districts are reported annually through the county superintendent together with all other attendance on forms provided by the superintendent. **(Sec. 11228, Cal. Ed. Code) (L)**

The ADA of physically handicapped elementary and secondary pupils, instructed by a county superintendent, whose attendance is credited to the county school service fund will be computed by dividing the total days of attendance of such pupils during the fiscal year by 175. **(Sec. 1151 and 1152, Cal. Ed. Code) (L)**

The ADA of educationally handicapped elementary and secondary children, instructed by a county superintenden whose attendance is credited to the county high school service fund will be computed by dividing the total days of attendance of these pupils during the fiscal year by 175. **(Sec. 11555 and 11556, Cal. Ed. Code) (L)**

Minimum school day in grades one to three in elementary schools, except in opportunity schools or classes, is 230 minutes unless the governing board of the school district has prescribed a shorter length of time because of lack of school facilities requiring double sessions. In this case, the minimum school day is 200 minutes. **(Sec. 11005 and 11006, Cal. Ed. Code) (L)**

Minimum school day in grades four to eight in elementary schools and in special day and evening classes in elementary school districts, except in opportunity schools or classes, is 240 minutes. **(Sec. 99006, Cal. Ed. Code) (L)**

The school day in any high school except an evening high school or regional occupational center, opportunity school and opportunity classes, continuation high school, and continuation education classes, and in late afternoon or Saturday occupationally oriented vocational training programs conducted under federally approved plans for vocational education is 240 minutes. **(Sec. 11052, Cal. Ed. Code) (L)**

Minimum school day for secondary educationally handicapped students is 240 minutes. **(Sec. 11054, Cal. Ed. Code) (L)**

The attendance of all physically handicapped pupils given instruction by a school district including those instructe under cooperative agreements with the bureau of vocational rehabilitation will be reported annually to the county superintendent of schools together with all other attendance. **(Sec. 11203, Cal. Ed. Code) (L)**

The attendance of physically handicapped pupils instructed pursuant to Section 8903 by the county superintende is credited as follows:

1. Attendance of elementary pupils taught in emergency elementary schools and in special classes shall be credite to the emergency schools.
2. Attendance of elementary school pupils given individual instruction in the home or at the bedside in institutions and of minors with speech disorders and defects at least three years of age and of minors who are deaf or hard of hearing between the ages of three and six given individual instruction in school or in the home or by cooperative arrangements with the division of vocational rehabilitation of the state department of rehabilitation, or in remedial classes, or in integrated programs of instruction, is credited to an emergency elementary school maintained for physically handicapped if there is such a school in the county. If there is no such school attendance is credited to an emergency elementary school. If there is no emergency school maintained in the county, the total number of days of attendance of pupils will be divided by 175 to compute average daily attendance and the ADA so computed is credited to the county school service fund as attendance upon a single emergency elementary school for individual instruction for the physically handicapped.
3. Attendance of pupils of secondary grades given individual instruction in the home or institution, or by cooperative arrangement with the division of vocational rehabilitation, or instructed in special classes of secondary grades will be credited to the county school service fund. Attendance of pupils taught by emergency teachers in the regular schools will be credited to the district except the attendance of pupils taught by emergency teachers pursuant to **Section 8902** in the regular elementary schools of the district of any county and the attendance of elementary pupils in remedial classes pursuant to **8901** will be credited to the county school service fund in accordance with subdivision two of this section.
4. Attendance of pupils residing in one county and educated under contract with the county superintendent of schools or governing board of the school district of another county will be credited to the county or district in which pupils are educated.
5. If the county superintendent maintains an integrated program of instruction as defined in Section 18060.2 and contracts with the school district to provide the instruction for part of the day in the regular classes of the district, the total attendance of the pupils under the program will be credited to the county school service fund at both the elementary and secondary levels. **(Sec. 11204, Cal. Ed. Code) (L)**

"The amount transferred pursuant to subdivision (b) of Section 17301 shall be expended in accordance with the following schedule:

"(a) Twenty-one dollars and fifty cents ($21.50) multiplied by the total average daily attendance credited during the preceding school year to elementary school districts which during the preceding school year had less than 901 units of average daily attendance, to high school districts which during the preceding school year had less than 301 units of average daily attendance, and to unified districts which during the proceding school year had less than 1501 units of average daily attendance, but not to exceed an amount equal to one dollar and sixty cents ($1.60) multiplied by the average daily attendance credited during the preceding fiscal year to all kindergarten elementary, high school, junior college and adult schools in the state and to county school tuition funds, for allowance to county school service funds pursuant to subdivision (a) of Section 18352.

"(b) Four dollars ($4) multiplied by the total average daily attendance credited to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds during the pre-

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ceding school year for the purposes of Article 10 (commencing with Section 18059) of Chapter 3 of this division.

c) Twelve dollars and eighty-five cents ($12.85), multiplied by the total average daily attendance credited to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds during the preceding school year, for the purposes of Section 18060 and 18062, and Articles 11, 12 and 13 (commencing with Sections 18102, 18152, and 18202, respectively) of Chapter 3 of this division.

d) Three dollars and six cents ($3.06) multiplied by the total average daily attendance credited to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds during the preceding school year for allowances to county school service funds pursuant to subdivision (b) of Sectio[illegible]

e) Ninety-six cents ($0.[illegible]) multiplied by the average daily attendance during the preceding fiscal year credited to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds for allowances to school districts for the purposes of Section 6476.

f) Sixty dollars and sixty-seven cents ($60.67) multiplied by the average daily attendance during the preceding fiscal year credited to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds during the preceding school year for basic aid, equalization aid, allowances for adults, and allowances to the county school tuition funds to be apportioned on account of average daily attendance." **(Sec. 17303.5, Cal. Ed. Code) (L)**

ie superintendent of public instruction shall not allow, except under Section 18060, a total amount in excess
ie amount provided by law for transportational allowances. **(Sec. 18051, Cal. Ed. Code) (L)**

as used in Section 18060, 'blind' includes partially seeing, and 'deaf' includes hard of hearing. 'Special day clas-
include integrated programs of instruction for physically handicapped children including those children handi-
ed in vision or hearing requiring provision of services of a qualified special teacher. 'Integrated programs of in-
tion for the physically handicapped' include those handicapped in vision or hearing or who are in any program
re a physically handicapped child receives his education in regular classrooms from regular classroom teachers
ldition, the child receives supplementary teaching services from a teacher possessing a valid credential to teach
ptional children of the type enrolled in the program. 'Supplementary teaching services' may include instruction
ie appropriate tool skills, the provision of special material, and the use of appropriate special equipment in neces-
counseling and guidance to enable physically handicapped, vision, and hearing handicapped children to benefit
from their instruction. 'Physically handicapped children' means those children who are eligible for special
placement as defined by the state board." **(Sec. 18060.2, Cal. Ed. Code) (L)**

ie superintendent will allow during the current fiscal year, to each school district and county school superinten-
maintaining special day classes for the education of physically handicapped, mentally retarded, severely men-
retarded and educationally handicapped children amounts prescribed by this article for each of their respective
s of classes maintained for the fiscal year. **(Sec. 18101, Cal. Ed. Code) (L)**

ie state board of education will adopt rules and regulations (based upon principles governing the education of
dicapped children), developed by competent authorities in the field to establish appropriate distinctions between
ial day classes and other forms of instruction, methods of organization by which instruction may be afforded to
various categories of handicapped children, and to establish appropriate class sizes for each category of handi-
ped minors for the special day classes. **(Sec. 18101.5, Cal. Ed. Code) (L)**

July 15th of each year the superintendent of each California diagnostic school for neurologically handicapped
dren will report in writing to the governing board of all school districts the name of each pupil in residence and
iber of days attended by each pupil during the fiscal year. For each pupil in attendance, the school district shall
ially pay to the department of education an amount determined by dividing the income credited to the general
l of the school district from the levy of the district tax rate and proceeds of taxes levied under sections 1822.2,
5, 16633, 16635, 16459, 1943, 19610, and 20801 and 22101 by the average daily attendance of the school
ict and (2) multiplying the quotient obtained by the ratio of the number of days pupils attended the school
s to the number of days that the school was in session. The payment to the department must be made by
tember 30. **(Sec. 26501.1, Cal. Ed. Code) (L)**

the school district pays more than is due the department, the department will refund the excess amount to the
ict from the appropriation in which the payment was credited. **(Sec. 16501.2, Cal. Ed. Code) (L)**

ie maximum rate of a school district tax for any fiscal year is increased by an amount that will provide the
unt of proposed expenditures for programs of educating physically handicapped and mentally retarded chil-
in development centers in excess of state apportionment as shown by a budget of the district adopted by the
erning board of the district. The proposed expenditures may include the cost of equipment and facilities, lease
urchase of buildings, lease of land, alteration or additions to existing buildings, or any other necessary capital
lay expenditures in connection with the programs. If at the end of any fiscal year there remains an unencumbered
ince derived from the revenue of the increase in tax, the balance will be used exclusively in the following fiscal
for the expenditures of the school district for development centers. **(Sec. 20807, Cal. Ed. Code) (L)**

county and city, or county (described in Sec. 6951) shall at the close of each school year pay to the district
ounty superintendent educating the child the cost of educating the child during the school year in a regularly
ised children's home. The cost is determined by dividing the total current expense of the school district or
inty superintendent of schools during the school year, plus all apportions from the state or allocations from
eral government received by the district or county superintendents of schools, by the total number of units of
age daily attendance in each district or in programs maintained by the county or city and county in which any
child is a resident at the closing of each school year, and also pay to the district or county superintendent of
ools educating the child the excess expenditures of educating him during the school year. The excess expendi-

tures are determined by dividing the total excess expenditures of the district or county during this school year for
educating these children with special purpose apportionments from the state or allocations from the federal govern-
ment on account of the excess cost of educating the child by the total number of units of **ADA** of such children in
the school, classes, facilities, and programs during each school year. The ADA for all minors attending a junior high
school or in accordance with Sections 5601 and 5612 will be credited to the elementary district in which the insti-
tution is located and excess expenditures and any additional expenditures made by the district during the school
year for the education of these minors.

In cases where the education of such children is provided in buildings or facilities owned by the school district or
county superintendent, the county or city and county of the child's residence shall pay the school district, or county
superintendent of schools for the child's use of the buildings, facilities, and equipment an amount per unit of ADA
in one of the following categories: **(1)** $35 in an elementary school district, (2) $55 in a high school district, (3) $42
in a unified school district, and **(4)** $44 to a county superintendent of schools.

The money received by the school district will be credited to its bond interests and redemption fund or building
fund. Monies received by the county will be deposited to the credit of the county school service fund for use in pro-
viding school buildings and facilities for use of the county superintendent of schools to educate mentally retarded
children, physically handicapped children, and non-immigrant children. Except for mentally retarded children and
physically handicapped children, no payment may be made to a district for children described in Section 6951 unless
the district educates from kindergarten through grade 12 at least 30 children described in Section 6951 in buildings
and facilities owned by the district. No payment is made to a district under Section 6950, unless the district educates
(from kindergarten through grade 12) at least 30 children described in Section 6950 in buildings or facilities owned
by the district. **(Sec. 6952.5, Cal. Ed. Code) (L)**

By July 15 of each year, districts maintaining such schools or classes shall forward, to the county superintendent
or city and county where the district is located, claims for reimbursement to the pupil's county and city or county
of residence. **(Sec. 6953, Cal. Ed. Code) (L)**

The county superintendent in each county or city and county will file, with the board of supervisors by August 8,
a request for sufficient funds to pay the total amount of the claims presented to him in accordance with this chap-
ter. If during any fiscal year the county superintendent determines an amount of at least $100 more or an amount
of at least $100 less than was required for the claim of any individual district included in his request to the county
board of supervisors during a prior fiscal year, this amount shall no later than the third succeeding fiscal year be
added or deducted from the requested funds for the then current fiscal year. **(Sec. 6954, Cal. Ed. Code) (L)**

Boards of supervisors of each county and city or county will annually, at the time and in the manner of levying
of the city and county taxes, levy a special tax for the payment of the claims submitted under this chapter. **(Sec.
6955, Cal. Ed. Code) (L)**

Monies received from the county tax will be deposited in the county treasury to the credit of the county school
service fund. By the first Monday in February and first Monday in June of each year, the county auditor will notify
the county superintendent of the amount of money in the treasury available for payment of claims under this chap-
ter. **(Sec. 6955, Cal. Ed. Code) (L)**

The state superintendent will prescribe the procedures required of school districts and county superintendents
under this chapter. They will also adopt all rules and regulations necessary to carry it out. **(Sec. 6957, Cal. Ed. Code)
(L)**

The superintendent of public instruction will provide the facilities, furniture, equipment, and personnel necessary
to carry out the provisions of 10301. **(Sec. 10302, Cal. Ed. Code) (L)**

In order to carry out these provisions, the superintendent will be allowed an amount not exceeding $28,000 an-
nually. **(Sec. 30303, Cal. Ed. Code) (L)**

The schools and classes will be established in centrally located places, and the county superintendent shall provide
transportation for the pupils attending them. The district shall pay (to the county service fund) all costs of education
for these children which are in excess of the amounts apportioned from the state school's fund for educable mentally
retarded children. **(L)**

The programs, with the approval of the county board, may be provided in one or more of the following ways: 1)
in special schools or classes of elementary and secondary grade; 2) by employing emergency teachers to provide
special instruction in the regular schools of the districts in the county; 3) by maintenance of special classes of secon-
dary grade; 4) by employing home instructors giving individual instruction in the home or at the bedside in institu-
tions and by employing instructors to provide remedial instruction for the physically handicapped in regular special
day and special training schools or classes which he is authorized to conduct, and by employing instructors to pro-
vide individual instruction for children with speech disorders or defects who are at least three years of age; 5) by co-
operating with the department of rehabilitation and providing individual instruction and coordination services; 6)
by contracting with the county superintendent of schools of another county or with the governing board of any
school district; 7) by integrated programs of instruction in elementary or in secondary grade, and 8) by employing
instructors to provide individual instruction in school or in homes of minors who are deaf or hard of hearing as de-
termined by the state board of education or between the ages of three and six. These schools and classes will be es-
tablished at centrally located places, and the county superintendent will provide transportation to the students at-
tending these classes. **(L)**

The attendance of physically handicapped children instructed by the county superintendent will be credited as
follows:

1. Attendance of elementary pupils in the emergency elementary schools and in special classes will be credited
to the emergency schools.
2. Attendance of elementary pupils given individual instruction at home or at the bedside in institutions or minor
with speech disorders or defects who are at least three years of age, minors who are deaf or hard of hearing and
between the ages of three and six and given individual instruction in a school, in the home, or by cooperative

arrangements with the division of vocational rehabilitation or in remedial classes or in integrated programs of instruction must be credited to an emergency elementary school maintained for physically handicapped pupils if such a school is maintained in the county. If no school is maintained, the attendance will be credited to an emergency elementary school, the total number of days of attendance of pupils shall be divided by 175 to compute the ADA. The ADA thus computed will be credited to the county school service fund as attendance upon a single emergency elementary school for individual instruction of physically handicapped children. Attendance of pupils of secondary grades given individual instruction in the home or in institutions or by cooperative agreement with the division of rehabilitation or instructed in special classes of secondary grade or in remedial classes or in integrated programs of instruction of secondary grade will be credited to the county school service fund.

3. Attendance of pupils taught by emergency teachers in regular schools of the districts of any county will be credited to the districts except that the attendance of pupils taught by emergency teachers in the regular elementary school of the district of any county and the attendance of any elementary pupils in remedial classes will be credited to the county school service fund.
4. Attendance of pupils residing in one county and educated under contract with the county superintendent of schools or governing board of a school district of another county shall be credited to the county's school service fund of the county providing the services.
5. If the county superintendent of schools maintains an integrated program of instruction and contracts with the school district to provide instruction for part of the day in the regular classes of the district, the total attendance of pupils will be credited to the county school service fund at both the elementary and secondary levels.

The superintendent of public instruction will establish reasonable and uniform standards for development centers nd for the admission of children. **(L)**

Attendance of pupils residing in one county and educated under contract with the county superintendent of chools or governing board of the school district of another county will be credited to the county school service und of the county or district in which pupils are educated. **(L)**

The maximum tax rate of the school district for any school year may be increased by an amount determined by he governing board of the school district that has entered into an agreement with another district or with the county uperintendent for educational services and facilities including the rental of property or purchase of equipment for educable and severely mentally retarded minors. Minimum amounts will be included in the budget for the purchase r improvement of school facilities. Budget expenditures may include the cost of equipment and facilities, lease or ease-purchasing of buildings, lease of equipment, alterations or additions to existing buildings or other necessary apital outlay expenditures in connection with such educational services. If, at the end of the school year, there remains an unencumbered balance derived from the revenue of the increase in the tax rate the balance will be used exclusively for such expenditures in the following fiscal year. **(L)**

The superintendent of public instruction is allowed to grant to county school service funds, in addition to all other allowances, state funds:

1. for all emergency schools maintained in each elementary school district of the county by the county superintendent of schools.
2. for all special schools or classes for mentally retarded and severely mentally retarded children maintained in each elementary school district of the county by the county superintendent of schools.
3. for all elementary schools maintained in juvenile halls, juvenile homes, and juvenile camps by the county superintendent of schools, and
4. for schools and classes for educationally handicapped children maintained in each elementary school district of the county by the county superintendent the same amount as he would compute as the foundation program of the elementary school district. No reimbursement may be given for emergency schools in excess of the actual expense of maintaining the school.

The ADA of physically handicapped elementary and secondary pupils, instructed by a county superintendent, whose attendance is credited to the county school service fund will be computed by dividing the total days of attendance of such pupils during the fiscal year by 175. **(L)**

The ADA of educationally handicapped elementary and secondary children, instructed by a county superintendent whose attendance is credited to the county high school service fund will be computed by dividing the total days of attendance of these pupils during the fiscal year by 175. **(L)**

If the county superintendent maintains an integrated program of instruction as defined in Section 18060.2 and contracts with the school district to provide the instruction for part of the day in the regular classes of the district, the total attendance of the pupils under the program will be credited to the county school service fund at both the elementary and secondary levels. **(L)**

In cases where the education of such children is provided in buildings or facilities owned by the school district or county superintendent, the county or city and county of the child's residence shall pay the school district, or county superintendent of schools for the child's use of the buildings, facilities, and equipment an amount per unit of ADA in one of the following categories: (1) $48 in an elementary school district, (2) $55 in a high school district, (3) $42 in a unified school district, and (4) $44 to a county superintendent of schools. **(L)**

The money received by the school district will be credited to its bond interest and redemption fund or building fund. Moneys received by the county will be deposited to the credit of the county school service fund for use in providing school buildings and facilities for use of the county superintendent of schools to educate mentally retarded children, physically handicapped children, and mentally retarded children. Except for mentally retarded children and physically handicapped children, no payment may be made to a district for children described in Section 6951 in buildings and facilities owned by the district. No payment is made to a district under Section 6950, unless the district educates (from kindergarten through grade 12) at least 30 children described in Section 6950 in buildings or

Special classes for the mentally retarded are established by the County Superintendent of Schools for children from districts too small for the maintenance of special classes or for larger school systems who want to contract for the education of the mentally retarded in their district. The district is to be billed for the excess cost of educating the mentally retarded by the County Superintendent of Schools. **(Op. Att'y. Gen., August 18, 1967)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Party Entering Agreement	Party Providing Services	Program	Finance
School district governing board	County superintendent or governing board of another school	Special educational programs for educationally handicapped minors by agreement with county superintendent or contract with another school district.	District of residence must pay expenses not covered by state apportionments paid to the county superintendent if the school district has an average daily attendance (ADA) fewer than 901 pupils. Foundation programs provide financing if the school district has an ADA of 901 or more pupils.
School district governing board	County superintendent or another school district governing board in the same or another county	Special educational programs for physically handicapped minors by agreement with county superintendent or contract with another school district. The county superintendent must report annually to the state superintendent the total ADA, type of instruction provided, cost of education and any other necessary information for programs that he operates.	A special county tax may be levied to raise the amount of money needed as determined by the county superintendent. This amount will not include any funds for the education of physically handicapped pupils through programs not operated by the county superintendent. Where contracting between school districts is carried on, the contract must provide for the actual payment of the cost of the use of buildings and equipment.
			For any one category of physically handicapped pupils the cost of tuition must not exceed the difference between prior expenditures per unit of average daily attendance and the state funds apportionment for that given category. The contracting district must have an ADA of 8,000 or more
School district	County superintendent or another school district	Contract to provide education for physically handicapped, mentally retarded, or educationally handicapped children.	District of residence must pay all costs in excess of the amounts received from the state school fund by the servicing unit. Whenever a county superintendent is a party to such contracts, the school district of residence is the only party permitted to levy taxes to defray the cost of educational services under the contract. Contracting district(s) must have an ADA of at least 4,000

Party Entering Agreement	Party Providing Services	Program	Finance
Governing board of any school district or county superintendent of any county maintaining secondary schools	State agencies and departments, governing boards of school districts, county superintendents of other counties	Contract to provide occupational training, mobility training, sheltered workshops and work experience programs. Any school district governing board or county superintendent entering into a contract with the state department of rehabilitation may employ or allow to be employed in the school district employees of the state department of rehabilitation or other persons not employed by the department but certified by the department to be fully qualified.	The state superintendent describes qualification procedures and determines the amount of allowance.
School districts required	One or more school districts or department of rehabilitation	School or class in a hospital, sanitorium, etc. Governing boards of the districts may jointly employ personnel to administer and conduct the program.	The school districts of residence pays the cost per school year of educating the child. The cost is determined by dividing the total current expenditures of the school district during each school year for the maintenance of the schools or classes less all apportionments from the state or allocations from the federal government for such classes, but the total number of units of ADA. State excess cost aid is provided. Districts receiving such tuition charges may include in their budget an amount necessary to pay the claim. If the amount is included in the budget, the board of supervisors must levy a school district tax to raise the amount. This tax is in addition to other taxes authorized by law.

"'Special day classes' includes integrating programs of instruction for physically handicapped children including those handicapped in vision or hearing where the services of a qualified special teacher are provided.

"An integrated program of instruction for physically handicapped children including those handicapped in vision or hearing shall be defined as any program in which such physically handicapped children receive their education in regular classrooms from regular classroom teachers, but receive, in addition, supplementary teacher services of a full time special teacher, possessing a valid credential to teach exceptional children of a type enrolled in the program. Such supplementary teaching services may include instruction in the appropriate tool skills, the provision of special materials in the use of appropriate special equipment, and counseling and guidance necessary to enable physically handicapped children and those handicapped in vision or hearing to benefit fully from their instruction. As used in this section 'physically handicapped' children means those physically handicapped who are deemed eligible for special class placement as defined by the state board of education." **(Sec. 18192.4, Cal. Ed. Code) (L)**

The governing board of the school district in which any physically handicapped child is actually living, although the residence of his parents or guardian is outside the district, shall provide the transportation for the minor to the school at which the education is furnished if his handicap prevents his walking to school. Transportation is also provided if the distance is greater than one mile, regardless of whether the education is furnished within or without the district. **(Sec. 6808, Cal. Ed. Code) (L)**

School districts maintaining home teaching programs for the handicapped may provide such teaching on Saturdays with the consent of the parent or guardian of the handicapped child. **(Sec. 6153, Cal. Ed. Code) (L)**

On or after September 1, 1975, all persons teaching multiply handicapped children must hold a valid credential to teach exceptional children. **(Sec. 6802.2, Cal. Ed. Code) (L)**

The superintendent of public instruction may approve special day classes for the multiply handicapped conducted by a school district or county superintendent of schools. During fiscal year 1970-71, no more than 100 classes could have been approved. Beginning with the 1971 regular session of the Legislature, the superintendent of public instruction shall annually report to the Legislature progress being made in the education of multiply handicapped children, including the number of authorized classes and number of children enrolled, the nature of handicapping conditions of children in the special classes, a description of the instruction provided, the objectives of the program, achievement outcomes, and recommendations for further program development. **(Sec. 6812.1, Cal. Ed. Code) (L)**

Deaf, severely hard of hearing, blind, deaf-blind or other multiply handicapped children (as determined by the state board of education) who are between the ages of 18 months and three years, may be enrolled in experimental programs conducted by the school district or the county superintendent of schools. Such programs must be approved by the superintendent. Teachers participating in this program must possess full qualifications to teach the deaf, severely hard of hearing, blind or deaf-blind or other multiply handicapped children as prescribed by the rules and regulations of the state board. **(Sec. 6812.5, Cal. Ed. Code) (L)**

Individual counseling and guidance in social and vocational matters shall be provided as part of the instructional program for physically handicapped students. With the approval of the state department, governing boards of any school district may separately (or in cooperation with the governing board or boards of one of any school districts or in cooperation with the department of rehabilitation) employ a special coordinator who will make a study of employment and occupational opportunities and who will assist in the coordination of the education of physically handicapped children with the commercial and industrial pursuits of the community to prepare the minors for employment. **(Sec. 6818, Cal. Ed. Code) (L)**

The superintendent of public instruction will withhold, from the total amount allocated in any current fiscal year, an amount equal to .0010 of the amount allocated in the preceding year for use by the department of education for research, program development, and evaluation of special education through contractual agreement. Seventy-five percent of the funds withheld will be used to contract for research in special education for exceptional children. Contractual agreements for such research will be made with universities operating such a program. The department will expend for research and services at least $75,000 annually for a period of five years. Twenty-five percent of the withheld amount will be used by the department for program development and evaluation through contractual agreements with an agency or organization possessing personnel and competencies necessary for the successful completion of the project or projects selected for study and analysis. **(Sec. 18104, Cal. Ed. Code) (L)**

The chairman of the Assembly education committee, the chairman of the Senate education committee, and two additional members from the Senate and the Assembly chosen by the speaker and the president protem, will meet with the committee and participate in its activities to the extent that their participation is not incompatible with their respective positions as members of the legislature. **(Sec. 18104.2, Cal. Ed. Code) (L)**

On November 1 of each year between 1971 and 1974, the department will report to the joint legislative budget committee on all activities relating to the contracts for research in special education and all activities in evaluation in program development. The legislative analyst shall prepare analysis for the legislature of the reports made by the department of education to the joint legislative budget committee. **(Sec. 18104.4, Cal. Ed. Code) (L)**

The legislative analyst will be informed by the department of the progress of any current negotiations respecting any proposed contracts for research, evaluation, or program development in special education. **(Sec. 18104.4, Cal. Ed. Code) (L)**

Before initiating any program for the educationally handicapped, the governing boards of school districts or county superintendents must notify the superintendent of public instruction of its intention to do so and furnish any relevant information with respect to the proposed special education program that may be required by the superintendent. The notice and the information on it will be on the forms provided by the superintendent. **(Sec. 6754, Cal. Ed. Code) (L)**

Governing boards of any school district maintaining secondary schools will have the power, with the approval of the state department of education, to establish special classes to serve the educational needs of handicapped adults. Classes will be directed to providing instruction in civic, vocational, literacy, homemaking, technical, and general education. **(Sec. 5746, Cal. Ed. Code) (L)**

If a school district or county superintendent is required to temporarily close a children's center or a development center because of fire, flood, or epidemic, the superintendent of public instruction will determine the approximate amounts of state funds which would have been apportioned to the school district or county superintendent for the period involved if there had been no closure. This amount will be apportioned to the school district or county superintendent if the fact of closure has been established to the satisfaction of the superintendent by affidavits of the county superintendent and of the members of the governing board of any involved school district. The amount determined will be apportioned to the school district or to the county board or county superintendent of schools even though no fee was charged or collected from parents of children who attend the center. **(Sec. 16618.5, Cal. Ed. Code) (L)**

School districts or a county superintendent of schools may maintain, with the superintendent's approval, one or more development centers for children between the ages of three and 21 who reside in or who are in the custody of persons residing in the district or county. The governing body or county superintendent will determine the hours, days, and months during which the development center is to be maintained. If a county superintendent maintains a development center, it will be on terms and conditions provided for in a written contract between the county superintendent of schools and the governing body of each school district. **(Sec. 16645.2, Cal. Ed. Code) (L)**

The superintendent of public instruction will establish reasonable and uniform standards for development centers and for the admission of children. **(Sec. 16645.4, Cal. Ed. Code) (L)**

Governing boards maintaining a development center may allow children from other districts to attend the center upon conditions mutually agreed to by the governing boards of both districts. The terms and conditions include payment of the costs required or authorized to be paid from the district general fund or a special development center tax levied by the operating district. The amount will be paid from any funds of the contracting school district available for that purpose. **(Sec. 16645.5, Cal. Ed. Code) (L)**

Governing boards may permit the use of or furnish maintenance for buildings, grounds, and equipment of the district and may use existing administrative personnel for the purposes of administering the program for the development centers. **(Sec. 16645.6, Cal. Ed. Code) (L)**

Governing boards of districts may enter into agreements with any city, county, or city and county, or other public agency for the use of property, facilities, personnel, supplies, equipment, and any other necessary items. Agreements may be entered into between governing boards and private nonprofit agencies. **(Sec. 16645.7, Cal. Ed. Code) (L)**

The superintendent of public instruction will apportion to the districts or county superintendents necessary amounts to operate development centers. In no event shall the amount apportioned exceed the sum obtained by multiplying $1.75 by the number of hours a child is in attendance at the center. **(Sec. 16645.8, Cal. Ed. Code) (L)**

Any school district or county superintendent maintaining such a center may include in its budget an amount necessary to carry out the program. The board of supervisors will levy a school district tax or county tax to raise the necessary amount. The tax is in addition to any other school district tax or county tax authorized by law. Funds derived from the tax may be expended in addition to state funds and will not operate to affect the operation of the formula for apportionment of state funds provided in Section 16645.8. Any tax funds raised in this section may be used to purchase land or buildings and to make alterations or additions to existing buildings and to purchase furniture, apparatus, or equipment for a development center. Any school district entering into a contract with the county superintendent to establish a development center for the handicapped will be considered as maintaining a development center.

The governing board will establish from the county treasury a fund known as the "development center for handicapped minors fund." All funds received by the district for the operation of the center will be paid into this fund. Maintenance and operating costs shall be paid from the fund. However, any contributions, other than those to the employee retirement system, are to be paid by the district from the general fund or from funds of the district derived from a special tax levied according to Section 14657 or 14758 of the education code or Section 20532 of the government code. No funds of a district derived from district taxes except the tax for the development centers, and no state funds other than those appropriated from the general fund for the support of the development centers may be expended in connection with such a center. **(Sec. 16645.11, Cal. Ed. Code) (L)**

If, during any fiscal year, a development center received more or less than the amount to which the center was entitled, the superintendent during the next or any succeeding fiscal year will withhold from or add to the apportionment in the amount of the excess or deficiency. **(Sec. 16645.12, Cal. Ed. Code) (L)**

The state department of education may accept funds from the U.S. government and apportion them to governing boards of districts to conduct development centers which are also authorized to accept such funds. **(Sec. 16645.13, Cal. Ed. Code) (L)**

The superintendent of public instruction will establish the standards to issue permits for persons employed by the center. **(Sec. 16645.14, Cal. Ed. Code) (L)**

Persons employed in a development center in positions requiring certification are subject to the same rules and regulation. They are also eligible for the same benefits as are teachers within the school or education development center. **(Sec. 16645.16, Cal. Ed. Code) (L)**

The governing board of the district may adopt reasonable rules and regulations to govern the centers that are not in conflict with the laws and standards or regulations of the superintendent. Local rules and regulations may include admission of children and their exclusion from such centers. **(Sec. 16645.17, Cal. Ed. Code) (L)**

No provision may require medical examination or immunization for admission to a development center for a child whose parent or guardian files a letter with the governing board stating that the medical examination or immunization is contrary to his religious beliefs or provides for the exclusion of a child from a center because of the parent or guardian having filed such a letter. If there is cause to believe the child is suffering from a contagious or infectious disease, he may be temporarily excluded until the governing board of the district is assured that any contagious or infectious disease does not exist. **(Sec. 16645.18, Cal. Ed. Code) (L)**

Children enrolled in the development centers, who are absent on account of illness or quarantine, are considered in regular attendance for the number of hours per day for which they are enrolled for state apportionment purposes. All attendance is reported according to the requirements of the superintendent of public instruction. **(Sec. 16645.19, Cal. Ed. Code) (L)**

Any development center may be discontinued at the discretion of the governing board of the district giving prescribed notice. At least 30 days before the discontinuance of a center, the governing board must mail (to each person having custody of a child in attendance at the center) notices of the intent to discontinue it and the date it becomes effective. **(Sec. 16645.20, Cal. Ed. Code) (L)**

An advisory committee on development centers will be established to aid in setting standards for the admission to centers and to advise the department of education in the administration and operation of the centers. The committee consists of one member from the department of social welfare appointed by the director of social welfare, one member from the department of public health appointed by the director of public health, one member from the department of education and appointed by the director of education, one member from the general public, one parent of a handicapped minor appointed by the director of education, and four members each from a school district or county superintendent of schools' office participating in the program appointed by the director. **(Sec. 16645.23, Cal. Ed. Code) (L)**

Governing boards of any school district or the county superintendent of schools may provide transportation for children between the home and the center. The superintendent will allow, to each school district or county superintendent, an amount equal to the current expenses of transporting severely handicapped children, but not exceeding $675 for each unit of ADA in the center per year resulting from the attendance of children transported between home and the center. Average daily attendance as used in this section will be determined on the basis of 250 days a year. **(Sec. 16645.24, Cal. Ed. Code) (L)**

The superintendent of public instruction shall provide coordinating, consultative, and supervisory services for programs for development centers for handicapped minors who employ personnel to devote their entire time to the provision of such services. **(Sec. 16645.25) (L)**

Specialized preparation means training and education designed to prepare persons to serve as librarians and to teach librarians to serve as teachers for exceptional children as designated by the credential. A degree includes any certificate, diploma, or other document granted by a foreign institution of higher learning, standards equivalent to those of a degree granted by universities or colleges in the United States, and performing academic requirements for California teaching credentials. **(Sec. 13188, Cal. Ed. Code) (L)**

The state board of education may issue a standard teaching credential with a specialization in elementary teaching, secondary teaching, or junior college teaching to any person, who holds a regular general elementary, secondary, or junior college teaching credential and who has completed the specialized preparation to become a teacher of exceptional children. The credential will authorize service at any educational level in the public schools but only as a librarian or teacher of exceptional children in the area of specialized preparation completed. **(Sec. 13197.55, Cal Ed. Code) (L)**

The department of education may pay, from the available funds, the expenses of any deaf student attending Gallaudet College on scholarship from the college who is a graduate of the California School for the Deaf at Berkeley or Riverside or a high school in California or who has been a resident of California for at least two years and has been enrolled or is attending a private or public college or university in California. **(Sec. 25610, Cal. Ed. Code) (L)**

The director of education may authorize the California School for the Deaf to maintain testing centers for deaf and hard of hearing minors. The centers will test hearing acuity and give any other tests necessary in order to advise parents and school authorities about an appropriate educational program for any child. **(Sec. 25653, Cal. Ed. Code) (L)**

In conjunction with the California School for the Deaf, the state department may establish preschool and kindergarten services for care and teaching of hearing impaired children under school age. The department will prescribe the rules and regulations governing the conduct of the preschool and kindergarten service and appoint any necessary teachers. **(Sec. 25651, Cal. Ed. Code) (L)**

Also in connection with the California School for the Deaf, the state department of education may offer classes of instruction to parents of deaf children to assist and instruct the parents in the early care and training of such a child, to train the child in play, and to do everything which will assure the child's physical, mental, and social adjustment to his environment. **(Sec. 25652, Cal. Ed. Code) (L)**

"It is the intent and purpose of the Legislature in providing for the establishment and/or in conjunction with individual state colleges, under this Chapter, or of laboratory classes for exceptional children, to accomplish the following general aims: improve programs presently offered within the state college system for the training of teachers in the education of exceptional children, and afford prospective teachers with direct experience with typical exceptional children; provide facilities and workshops where a systematic system of continuing research and development of methods, means, or techniques in teaching exceptional children shall be conducted; accelerate the recruitment and training of prospective teachers of exceptional children and provide in-service training for credentialed teachers to improve their skills; provide or combine a comprehensive college level program of research and teacher training to meet the needs of exceptional children such as will serve to attract and effectively utilize available public and private funds and grants, and provide for increases and improved special educational services for exceptional children through cooperation and coordination with local school districts and county offices." **(Sec. 24351, Cal. Ed. Code) (L)**

Laboratory schools or classes will be considered for certified financial support as separately budgeted, for each budget request submitted by the state colleges and in the budget act. **(Sec. 24352, Cal. Ed. Code) (L)**

School districts and county superintendents of schools may contract with sheltered workshops and other work establishments (approved for supervised occupational training for physically handicapped and mentally retarded minors) and may reimburse them for the expenses incurred in the training of such minors. **(Sec. 6932, Cal. Ed. Code) (L)**

The state department of education, through the state employment service, will cooperate with local school officials and the state department of education in placing physically handicapped individuals. **(Sec. 6819, Cal. Ed. Code) (L)**

No person may teach blind, partially seeing, hard of hearing, speech handicapped, or orthopedically handicapped children in special day or remedial classes who does not hold a valid credential authorizing such teaching. Teachers substituting in special day classes for not more than 20 days in any school year may hold some other valid credential authorizing substitute teaching. **(Sec. 6820, Cal. Ed. Code) (L)**

By September 1, 1975, all persons employed to teach deaf, severely hard of hearing, blind, partially seeing, aphasic, or speech handicapped persons in homes, hospitals, or licensed children's institutions must have a valid credential for such teaching. Persons without a credential may teach less than 20 days a year as a substitute. The 20 day period may be extended on an individual basis but not beyond that school year. **(Sec. 6820.1, Cal. Ed. Code) (L)**

The state department will establish and maintain nursery school-parent institutes at the schools for the deaf in Riverside and Berkeley for preschool deaf children between the ages of three and six and their parents or guardians. Each nursery school-parent institute will be maintained for at least one, but not more than two, calender weeks per school year. The institute will provide a program designed to assist and instruct parents of preschool deaf children in the early care and training of the child as well as to promote communication skills of the child and to do everything to help assure the physical, mental, social, and communication development of the deaf child. Any preschool deaf child and his parents or guardians receiving individual instruction at school or at home are not eligible for attending the institute. The department will make annual budget arrangements for carrying out this act. Budget arrangements include provisions for all expenses, including lodging and meals for the deaf child and his parents or guardians. **(Sec. 6822, Cal. Ed. Code) (L)**

Up to $200 may be allowed by the superintendent for physically handicapped, mentally retarded, and educationally handicapped minors attending a public secondary school who may qualify for a driver's allowance for the necessary driver training instruction. **(Sec. 17305.6, Cal. Ed. Code) (L)**

Blind, deaf, aphasic, orthopedic, or other health impaired, multiply handicapped, mentally retarded, and physically handicapped children who are handicapped in mobility are eligible for transportation services. **(L)**

Transportation is provided to the state schools for the deaf and blind, and to day classes in other locations for all eligible children. County superintendents maintaining programs may provide transportation instead of entering an agreement with school district of residence. Transportation to development centers for handicapped children is also included.

The school district of residence usually provides the transportation. **(L)**

School buses are the approved mode of transportation. **(L)**

Special vehicles may be used for children who require them. **(L)**

The state annually reimburses $389 for each unit of average daily attendance. If children require special vehicles, 75% of any expense in excess of $389 may be allowed, but not exceeding $73 per unit of average daily attendance. **(L)**

Class Size:	Number of Pupils Minimum	 Maximum
Aurally Handicapped		
Special Class (Severely Hard of Hearing) (ages 3-8)		8
Special Class (Severely Hard of Hearing) (ages 9-20)		10
Special Class (Deaf & Severely Hard of Hearing) (ages 3-8)		6
Special Class (Deaf & Severely Hard of Hearing) (ages 9-20)		8
Deaf		
Special Class (ages 3-8)		6
Special Class (ages 9-20)		8
Combined Special Class w/severely handicapped		6
Combined Special Class w/severely handicapped		8
Learning Disabled		
Special Class (Aphasic) (ages 3-8)		6
Special Class (Aphasic) (ages 9-20)		8
Special Class (Educationally Handicapped)		12
Resource Program (Learning Disability) (Caseload)		32*

*In Resource Program, no more than eight pupils are instructed at a time.

MULTIPLY HANDICAPPED		
Special Class (Deaf-blind) (Ages 3-8)	--	3
Special Class (Deaf-blind) (Ages 9-20)	--	5
Special Class (Ages 3-8)	--	6
Special Class (Ages 9-20)	--	8
VISUALLY HANDICAPPED		
Special Class (Blind and Partially Seeing) (Ages 3-8)	--	8
Special Class (Blind and Partially Seeing) (Ages 9-20)	--	10
Special Class (Partially Seeing only) (Ages 3-8)	--	10
Special Class (Partially Seeing only) (Ages 9-20)	--	12
PHYSICALLY HANDICAPPED		
Ages 3		
Special Class (Orthopedic or other health impaired) (Ages 3-8)	--	12
Special Class (Orthopedic or other health impaired) (Ages 9-20)	--	16
EMOTIONALLY DISTURBED		
Special Class (Educationally Handicapped)	--	12

NOTE: Maximum class size (except for the educationally or mentally handicapped) may be exceed by not more than two pupils for the remainder of a school year if additional pupils enrolled after the beginning of the school year will otherwise be without schooling and qualified teachers are not available to establish additional classes.

Maximum class size may be waived in experiemental studies to determine proper maximum class size.

In either of the above cases, permission must be requested by the county or school district supervisor and received from the state department of public instruction.

Maximum class sizes for programs for the physically handicapped are as follows for children ages three through eight: deaf, six; severely hard of hearing, eight; combination of deaf and severely handicapped, six; blind, eight; partially seeing, 10; combination of blind and partially seeing, eight; orthopedic or other health impaired, [illegible]; aphasic, six; deaf, blind, multi-handicapped, three; and other multi-handicapped, six.

Maximum class sizes for programs for the physically handicapped are as follows for children ages nine through 20 years: deaf, eight; severely hard of hearing, ten; combination of deaf and severely handicapped, eight; blind, ten; partially seeing, 12; combination of blind and partially seeing, 10; orthopedic or other health impaired, 16; aphasic, eight; other physically handicapped, 20; deaf, blind, multi-handicapped, five, and other multi-handicapped, eight.

Maximum class size requirement may be waived in the following two circumstances: 1. With the approval of the state board of education, a county superintendent or school district submits a proposal to conduct experimental studies determining the proper maximum class size standards, or 2. If, after the beginning of the school year, the classes for a given category of physically handicapped children are at a maximum size and additional pupils will be without schooling unless additional classes are established and qualified teachers are unavailable, a school district or county superintendent of schools may request permission of the superintendent of public instruction to exceed the maximum class size for the remainder of that school year by not more than two pupils. **(Sec. 6802.2, Cal. Ed. Code) (L)**

Maximum class size for programs for the educationally handicapped in special day classes is 12. If, after the beginning of the school year, it is determined that additional pupils will be without schooling unless additional classes are established but additional qualified teachers are unavailable and the present classes are at the maximum size, a school district or county superintendent may request permission of the superintendent to exceed the maximum class size for all or part of the remainder of the school year. The superintendent may approve such requests as long as the maximum size is not increased more than two pupils above the maximum specified enrollment. **(L)**

For learning disability groups, the maximum enrollment is 32. Participation in a learning disability group will be for at least 30 minutes and not exceed eight pupils at any one time. The instruction provided by a full-time teacher, whether offered by a single teacher or two or more part-time teachers may result in not more than eight units of ADA being credited as a result of this instruction. **(Sec. 6751.1 Cal. Ed. Code) (L)**

Any district furnishing services to physically handicapped children shall furnish these services to all physically handicapped children residing in the district five or more days a week, although their legal residence may be outside the district. **(Sec. 6805, Cal. Ed. Code) (L)**

Some services provided in a deaf and hard of hearing program are: special day classes - self-contained and integrated; regular day classes; other remedial instruction; individual instruction; tuition payments to parents; remedial physical education; driver training; work experience; and experimental programs. **(EC Sec. 17305.7, 6802, 6818, 6870) (L)**

Pursuant to Education Code Section 25601, deaf minors, resident of the state between 3 and 21 years of age of suitable capacity, are entitled to an education in the California School for the Deaf free of charge. California School for the Deaf refers to either or both state schools, Berkeley and Riverside. Subject to the provisions of Education Code Section 894, responsibility for the education of deaf and severely hearing impaired minors remains with the district of residence. **(L)**

California public school programs for speech and hearing handicapped pupils are mandatory and an integral part of the education of pupils with language, speech and hearing disorders. Either the district of residence or county superintendent of schools shall establish and maintain programs for the language, speech and hearing handicapped as set forth in Education Code Section 894, 6806, and 6809. Mandatory programs are to be maintained for minors between 6 and 21 years of age; pupils may be admitted at the age of three years, or upon the prior approval of the superintendent of public instruction, may be admitted at the age of 18 months. **(L)**

Programs for the aphasic and other severe oral language handicapped minors are mandatory for pupils between six and 21 years of age as set forth in Education Code Sections 894, 6801-7812. Programs are permissive beginning at three years of age and with prior approval of the superintendent of public instruction permissive at 18 months of age. **(Education Code Sections 6806 and 6812.5) (L)**

Services provided the aphasic and/or severe oral language handicapped are: special day classes - self-contained and integrated; intensive remedial instruction; and individual instruction. **(EC Sec. 6802.1) (L)**

PRIVATE

School districts may provide for the instruction of educationally handicapped children residing in all regularly established, non-profit, tax exempt, licensed children's institutions within the district. Under such a program pupils who are unable to function in a school setting and who are not attending school receive instruction at the appropriate grade level in the institution. A pupil residing in the institution who is able to function in a school setting receives instruction at the appropriate grade level in the public school facilities. The governing board may contract with the county superintendent of schools for the provision of such programs. **(Sec. 6751.5, Cal. Ed. Code) (L)**

"It is the intent and purpose of the legislature enacting this chapter to provide special education facilities and services to exceptional children who, because the school district or county superintendent of schools of the county in which they reside, have no appropriate special education facilities and services or they cannot reasonably provide for their needs, or because the state of California has no facilities to educate them, are unserved by the state school system or by state institutions or agencies. It is the further intent and purpose of the legislature to provide the department of education with broad administrative discretion consistent with the needs of exceptional children in the intent of this chapter in carrying out the responsibilities under this chapter. The superintendent of public instruction may adopt rules and regulations consistent with this chapter which he deems necessary for the effective administration thereof." Exceptional children in this chapter include emotionally handicapped, physically handicapped, mentally retarded, severely mentally retarded, and multiply handicapped children as defined in the Population section. **(Sec. 6870, Cal. Ed. Code) (L)**

Any school district having a physically handicapped, mentally retarded, severely mentally retarded, educationally handicapped, or multiply handicapped minor to whom special education facilities are unavailable in the state of California, may, in lieu of establishing and maintaining the special education facilities at an unreasonable cost, pay to the parent or guardian of the child toward the tuition of a public or private non-sectarian school, institution or agency within or without the state offering the needed services. The amount paid may not exceed the per unit of average daily attendance of the regular state apportionment to the district. Reimbursable tuition includes the cost to the parent or guardian of transporting a minor enrolled in a public or private non-sectarian school under this section to and from school. **(Sec. 6871, Cal. Ed. Code) (L)**

This section also applies if special facilities are available within the state but at an unreasonable distance from the child's home. The superintendent shall implement the rules and regulations to determine "unreasonableness." County superintendents shall determine the "unreasonableness" of cost and distance for the districts within their jurisdiction and report to the superintendent.

In addition, these provisions are applicable if the attending physician of a physically handicapped, mentally retarded, severely mentally retarded, multiply handicapped, or educationally handicapped child or the attending optometrist of a physically handicapped child who is blind, partially seeing, or visually handicapped recommends that it is in the best interests of the health and welfare of the child to be enrolled in a private non-sectarian school, institution, or agency offering special services and facilities made necessary by the child's disabilities. The recommendation must be approved by the county superintendent and the county health office.

Priority will be given to placing children in public school or state-operated programs. Children will be placed in private programs only if no publicly operated programs are available within a reasonable distance of the child's residence, or if the public programs do not meet the needs of the child. When approving private programs, priority will be given to those nearest the parent or guardian of the child's residence. Schools enrolling exceptional children shall annually file a progress report with the appropriate county superintendent. **(Sec. 6871, Cal. Ed. Code) (L)**

The parent or guardian of the child who has been denied admission and qualifies for tuition payments will make a written application to the school district for the tuition payment. Within 30 days after receiving the application the school district must, in writing, grant or deny the application with reasons stated in cases of denial. If the application is denied, the parents or guardians may appeal to the county superintendent of schools who shall review the decision of the school district, and within 30 days after the appeal, either defer to or reverse the school district's decision. If the county superintendent of schools reverses the decision, a report and claim shall be made by the school district in which the minor resides. Then the county superintendent contracts for the placing of the exceptional child in another school district within or without the county. The superintendent may then transfer, to the district or county where the child was placed, the amount of state aid the placing district receives for the child. If the county superintendent of schools confirms the school district's decision, the parent or guardian may, within 10 days following receipt of the county superintendent's decision, further appeal to the department of education for reconsideration. Within 30 days after the receipt of the appeal, the department must, in writing, either affirm or reverse the decision of the county superintendent. In the case of an affirmation, a statement of reasons shall be also sent. If the department affirms the decision of the county superintendent, that decision shall be final. If the department reverses the decision, a report and claim will be made by the school district in which the minor resides. **(Sec. 6871.5, Cal. Ed. Code) (L)**

School districts having any children receiving benefits from special education services under this section will report the attendance of those children, and submit any claims the district may have for the regular and special purpose apportionment to be used in payment to the parent or guardian of the child toward tuition arising out of this attendance through the county superintendent to the superintendent of public instruction. The aforementioned report and claims are submitted at the time and in a manner provided by the superintendent. The county superintendent must verify the attendance and claims submitted. **(Sec. 6872, Cal. Ed. Code) (L)**

"An amount not to exceed three and one-half percent of the sum of any sum appropriated by the legislature of the 1952 second extraordinary session and not to exceed three and one-half percent of the total amount of any state bonds heretofore or hereafter authorized by the electorate for state school building aid may be expended by apportionments pursuant to this article for assistance to school districts in providing necessary housing and equipment for the education of exceptional children. All the provisions of article 1 (commencing with Section 19551) and Article 2 (commencing with Section 19651) of this chapter, except Sections 19556 and 19581 shall apply to this article unless otherwise provided herein". **(Sec. 19681, Cal. Ed. Code) (L)**

Exceptional children, as used in this article, includes physically handicapped, mentally retarded, multiply handicapped and educationally handicapped children. **(Sec. 19682, Cal. Ed. Code) (L)**

The obligation of any district, which receives an apportionment under this article to pay this apportionment, does not extend to more than one-half of the amount of the aid. **(Sec. 19684, Cal. Ed. Code) (L)**

With the approval of the county superintendent, school districts may apply for an allocation under this section for facilities for which state aid will be made available for use by the county superintendent until he ceases to conduct the classes or until the superintendent of schools of the county (other than the county whose superintendent of schools approves the allocation) acquires jurisdiction over the location of the facility, whichever occurs first. No more than 50% of any state aid made will be repaid. Repayments will be made in the following manner: 10% of the amount will be subject to repayment by the district to the extent in the manner prescribed by Article 1 (Sec. 19551-19632) for apportionments other than those made pursuant to Section 19[illegible]; 40% of the amount will be repaid in full with interest by the district in an annual amount over a period of years determined by the board but, not exceeding 20 years from the date the apportionment becomes final; the county board of supervisors in whose county the superintendent of schools conducts classes in the facility during any fiscal year shall at any time or time within the fiscal year may be agreed upon between the county and the school district but never later than the end of the fiscal year pay the school district having the obligation to repay the apportionment an amount equal to the amount the district is required to repay in said fiscal year with respect to the 40% of the amount of the apportionment described above. The county board of supervisors may raise the amount required by a general tax levy or by a tuition charge not exceeding $100 a year per pupil by the county superintendent of schools to the school district of residence of pupils attending the facility other than the district having the obligation to repay or through a combination of these.

Upon the application of a school district and written approval of county superintendent, the board may amend any previous apportionment received by a district for exceptional children. Only the unpaid balance of the apportionment at the time of the amendment of the apportionment with accrued interest to that date would be repaid as prescribed in this section. The county superintendent of schools will notify the county board of supervisors of his intention to approve a school district's application or allocation under this section. **(Sec. 19685, Cal. Ed. Code) (L)**

By July 10 each year the county superintendent (of the county in which there is a district maintaining facilities for exceptional children constructed with funds under this article) shall certify to the board of supervisors and to the county auditor the total number of units of ADA pupils enrolled in these facilities during the next preceding fiscal year who reside in the district other than the district maintaining the facility. As of July 10 of each year the county superintendent will notify the governing board of each affected district of the total number of units of average daily attendance of pupils residing in the district who are in that attendance at the facility maintained by another district. **(Sec. 19686, Cal. Ed. Code) (L)**

By July 20 of each year, the governing body of a school district which has received a notification will notify the county board of supervisors and the county auditor that the amounts required to be paid on behalf of the district be provided from a general fund of the district or by a special district tax levied by county board of supervisors. If the district notification specifies that the amount required will be provided by a special district tax or, if no notification is made, the board of supervisors with whom the certificate prescribed by Section 19865 is filed, will at the time and in the tax levy for that year for the county purposes, levy a special tax upon all taxed property in the district of residence of each pupil enrolled in the facilities, other than the district maintaining the facilities sufficient to raise for the use of the facilities the sum of $160 per unit of ADA or sending amounts per the unit of average daily attendance remaining in the county school building aid fund from more recent collections made in the prior years and not paid to the state. **(Sec. 19687, Cal. Ed. Code) (L)**

If the board of supervisors fails to make such a levy, the auditor will then make it. If a governing board of the school district has elected to provide from a district general fund the amount due, the county superintendent of schools will order the payment made in the required amount from the general fund of the district. **(Sec. 19688, Cal. Ed. Code) (L)**

The governing board of a school district determines, subject to the approval of the county superintendent, the amounts to be collected within the district by special taxes. If credits to the district and the county school building aid funds are substantially in excess of amounts required for the ensuing three year period, the county may order the payment to the district from the county school building fund of so much and such excess monies as he deems appropriate (or from the district to the county). **(Sec. 19688.5, Cal. Ed. Code) (L)**

The county auditor, no later than the last Monday in December and the last Monday in May of each year, will notify the superintendent of schools of the amounts in the county school building aid fund. The superintendent will then draw his order on the county auditor in the favor of the state treasurer for the amount in the county school building aid fund of the county. The total of such building aid fund of the county for any year may be limited to an amount not exceeding the total of $160 per each unit of ADA during the next preceding fiscal year. The amount will be paid by the county treasurer upon order of the state controller and will be deposited in the state treasury to the credit of the state school building aid fund. All money paid to this fund will be available only for transfer to the general fund under provisions of Section 19704 and will be credited to the repayment of the apportionment of funds to the district maintaining the facilities. **(Sec. 19689, Cal. Ed. Code) (L)**

County boards of education of any county providing for the education of handicapped persons residing in the county may, when necessary, construct and maintain dormitories, and fix the rates to be charged. **(Sec. 665, Cal. Ed. Code) (L)** the claim, an amount sufficient to satisfy the claim, but not in excess of the sum per unit of average daily attendance of the regular state apportionment to the district for the fiscal year in question, the amount allowed per unit of **ADA** for the particular disabilities under Section 18102, 18102.2, 18102.4, or 18102.6, and the amount per unit of **ADA** for that particular category under Sec. 18030. For multiply handicapped children, the apportionment shall not exceed the sum per unit of **ADA** of the states's regular apportionment to the district, the amount allowed per unit of **ADA** under Section 18102 and the amount allowable per unit of **ADA** for the particular category under Section 18060.

Apportionments for physically handicapped, mentally retarded, and multiply handicapped children are made from funds reserved under provisions of Section 17303.5(c). Apportionments for educationally handicapped children will be made from funds reserved under the provisions of Section 17303.5(g). State aid is paid for each fiscal year immediately following the fiscal year in which attendance occurs. **(Sec. 6863, Cal. Ed. Code) (L)**

No claim will be satisfied by the superintendent for the education of an exceptional child under this section, unless the school, institution, or agency which the child attends) meets minimum educational standards established by the state board of education. **(Sec. 6874, Cal. Ed. Code) (L)**

The state board of education is responsible for adopting rules and regulations relating to the educational program to be offered at these schools, institutions, or agencies. **(Sec. 6874, Cal. Ed. Code) (L)**

The school's program of instruction must include a curriculum conforming to that of the public schools and a written statement of this program must be available for review. **(L)**

The school must submit a certificate of compliance with Title VI of the Civil Rights Act of 1964, as well as an affadavit of nonsectarian status. Length of school day and year as well as maximum class size, must conform to public school standards. **(L)**

Teachers must be certified for the exceptionality of the child for whom tuition is being paid. Pupils with a different exceptionality must not number more than 25% of the allowable maximum class size. The school must report to the district of residence on the attendance of each child for whom the district pays tuition, and twice yearly on the progress of each child. **(L)**

The child's school board may order him transferred from one school, public or private, to another, subject to prior approval of the county superintendent. **(L)**

When a child is placed in a private facility, with tuition paid by the state, if he changes his residence, the following must occur:

1. parent or guardian must notify the superintendent of the school district making tuition payments.
2. within seven days of the parent's or guardian's notification being sent, the superintendent of the child's old school district must notify the superintendent of the child's new school district, provide him with the child's records, and end tuition payments on the date the child moves.
3. on the first school day following change of residence, the new school district of residence must begin paying tuition or place the child in an appropriate special education program.
4. refusal to provide placement or payment of tuition by the new school district may be appealed by the parent or guardian to the county superintendent who must make a decision within seven days after receiving the appeal. The parent or guardian may appeal the county superintendent's decision to the state superintendent, who

   must render his decision within seven days after receiving the appeal. Tuition payments are retroactive to the date of change of residence. State support begins on the date on which continued eligibility is determined, or the date of the child's change of residence, whichever occurs later. **(L)**

A county is not authorized to fund an educational program by a non-profit corporation for mentally retarded children. The county Superintendent of Schools or a school district in the county could contract for such services. **(Op. Att'y. Gen., February 10, 1970)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Teacher of Exceptional Children

requirements (may be substituted for the minor): Specialized courses appropriate to the area including student teaching -- deaf and hard of hearing (30), mentally retarded (22), orthopedically handicapped (22), speech and hearing handicapped (37), visually handicapped (22)

under the approved-program approach, an applicant with a specialized area of preparation qualifies for an initial standard elementary or standard secondary credential if he has completed the institution's approved four-year curriculum for the preparation of teachers in the appropriate specialized area, when such completions verified by the head of the school of department of teacher education or the applicant had completed an NCATE-approved program in the appropriate specialized area. An academic major is required -- this may be incorporated as a part of the fifth-year requirement for the permanent credential if the applicant has not already completed such a major.

Standard Teaching Credential

elementary -- bachelor's degree for the initial certificate; a year of postgraduate work for the permanent certificate; either the major or minor must be academic -- when the major is academic, the applicant may offer in lieu of the minor specialized preparation in deaf or hard of hearing, speech and hearing handicapped, mentally retarded, orthopedically handicapped or visually handicapped.

secondary -- bachelor's degree for the initial certificate (same as above), valid for grades 7-12 in a subject-matter major or minor or in special education if such preparation has been met for the minor.

separate group of "restricted credentials" valid for ten years for teaching in the areas of special education have been authorized by the legislature. These credentials do not require a major or minor and the author-

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STATE PROFILE

COLORADO

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-152013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution. "The General Assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state, wherein all residents of the state between the ages of six and 21 years may be educated gratuitously. One or more public schools shall be maintained in each school district within the state at least three months in each year; any school district failing to have such schools shall not be entitled to receive any portion of the school fund for the year." (Art. IX, Sec. 2, Colo. Const.) (L)

"The General Assembly may require, by law, that every child of sufficient mental and physical ability shall attend the public schools during the period between the ages of six and 18 years, for a time equivalent to three years, unless educated by other means." (Art. IX, Sec. 11, Colo. Const.) (L)

Compulsory Attendance Law. "Any resident of this state who has attained the age of six years and is under the age of 21 is entitled to attend the public schools in the school district in which he is a resident, during the academic year when the schools of the district are in regular session, and without the payment of tuition, subject only to the limitation of Sections [illegible] of this act. Tuition may be charged for a pupil not resident of the school district in which he attends school and for students and non-resident pupils as otherwise provided by the law." (Sec. 123-20-3 CRS) (L)

All children between seven and sixteen years shall attend the public schools at least 172 days during the school year. Exceptions may be made to this law if the child is absent for an extended period due to physical, mental, or emotional disabilities.

The child who is deaf or blind and has attained the age of six years and is under the age of 21 shall attend during the school year at least 172 days in a school providing suitable specialized instruction. If the Colorado School for the Deaf and the Blind refuses the child admission, and if it is impracticable to arrange attendance in a special education class within daily commuting distance of the child's home, this section does not apply. Any school providing instruction to deaf or blind children for less than the necessary 172 days shall file with the school district in which it is located a report showing the number of days taught and the names and ages of the children enrolled. (Sec. 123-20-5 CRS) (L)

Children will be excused from the compulsory attendance requirements if a reputable physician certifies in writing that the child's physical or mental condition does not permit his attendance at school. (Sec. 123-20-12 CRS) (L)

Boards of education of local school districts may suspend or expel children from the public schools during the school year for behavior which is detrimental to the welfare, safety, or morals of other pupils. The child may be expelled or denied admission [illegible] because of a physical or mental disability which renders the child unable to reasonably benefit from the program provided, or because a physical or mental disability or disease causes the attendance of the child to be detrimental to the welfare of other pupils. (Sec. 123-27 CRS) (L)

Policy. "The General Assembly declares that the purpose of this article is to provide means for educating those children in the state of Colorado who are physically, mentally, emotionally, or speech handicapped." (Sec. 123-22-2 CRS) (L)

"The general assembly declares that the purpose of sections 123-22-12 to 123-22-14 is to employ current educational technology to determine the educational needs of Colorado children who have learning disabilities and to create an information system which the general assembly may use to support a statewide plan through which such children may share an equal opportunity to overcome such learning disabilities." (Sec. 123-22-12 CRS) (L)

Responsibilities. Each board of education may, until July 1, 1976, and shall thereafter make available a special education program for any physically handicapped, mentally, educationally, or speech handicapped child resident of the school district. School districts may operate programs singly or jointly. (Sec. 123-22-8 CRS) (L)

Handicapped children shall be educated in regular classrooms, insofar as practicable, and should be assigned to special education classrooms only when the nature of the child's handicap makes the inclusion of the child in a regular classroom impractical. To this end, the services of special education personnel shall be utilized within the regular school programs to the maximum extent permitted by good educational practices, both in rendering services directly to children and in providing consultative services to regular classroom teachers. ([illegible])

In *Colorado Association for Retarded Children v. State of Colorado,* plaintiffs include the Colorado Association for Retarded Children and 13 mentally, physically, educationally, perceptually, or speech handicapped children. The defendants are the state of Colorado, its governor, the state departments of education and institutions, the state board of education, and eleven Colorado school districts. Plaintiffs claim a denial of due process and appropriate education as guaranteed in the state constitution. This denial, they allege, is based upon the criteria of wealth. The plaintiffs seek the empaneling of a three-judge court, an appropriate program for plaintiffs within 30 days of the order, and due process regarding identification, evaluation, and placement. The case, filed December 22, 1972, is still pending. The court denied a motion to dismiss, acknowledging distinctions between this case and *Rodriguez.* The court was unwilling to classify the exclusion as "suspect"

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POPULATION

Definitions: "'Handicapped children' means those persons between the ages of five and 21 who by reason of one or more of the following conditions are unable to receive reasonable benefit from ordinary education: long-term physical impairment or illness; significantly limited intellectual capacity; significant identifiable emotional or behavior disorder or identifiable perceptual or communicative disorders, or speech disorders. 'Handicapped children' also means those persons between the ages of five and 21 whose presence in the ordinary educational program is detrimental to the education of others and must therefore receive modified or supplementary assistance and services in order to function and learn." **(Sec. 123-22-3 (CRS) (L)**

"'Educationally handicapped children' means those persons between the ages of five and 21 years, who are emotionally handicapped or perceptual handicapped, or both, and who require special education programs."

"Pending the definition of the term 'learning disability' as called for in the information system required by sections 123-22-12 to 123-22-14, such term shall be construed to mean any impediment to the learning process, whether traceable to physical, mental, emotional, or social disorder or to any other identifiable defect in a child's ability to derive educational benefits from the public schools of this state." **(Sec. 123-22-12 (CRS) (L)**

An aurally handicapped child is one who, because of a deficiency in the hearing threshold level, even with the help of special aids, is unable to participate in or benefit from the classroom program regularly provided. The child will usually have a hearing loss of thirty decibels or more in each ear."

Educable mentally retarded child is one who, because of retarded mental development, is unable to participate in or benefit from the classroom program regularly provided, but who nonetheless possesses the ability to learn and may be expected to become socially and economically independent and useful if properly instructed. He will usually have an intelligence quotient between 50 and 80.

A physically handicapped child is "... one who becuase of an orthopedica, infectious, cardiopathic, cerebral palsy, or other condition, is unable to participate in or benefit from the classroom program regularly provided."

Speech handicapped children are those "whose speech deviates so far from the speech of other children that it calls attention to itself, interferes with communication, or causes its possessor to be maladjusted." **(R)**

Age of Eligibility: Physically handicapped children are eligible for special education services from age three to 21. Educable mentally handicapped and educationally handicapped children are eligible for services from ages five to 21. **(Sec. 123-22-3 (CRS) (L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Screening: The state board shall develop guidelines for the identification of handicapped children who may become eligible for special educational services under provisions of this article. **(Sec. 123-22-3) (L)**

Assessment and Placement: The determination that a child is handicapped and the recommendation for placement of that child in a special educational program shall be made by a committee of professionally qualified personnel designated by the board of education of the school district or by the governing board of the board of cooperative services if the administrative unit encompasses more than a single school district. The composition of the committee shall be prescribed by the state board and may be composed of but not limited to the following: A psychologist, a social worker, a physician, a school administrator, and a teacher of the handicapped. The committee shall give parents of an allegedly handicapped child an opportunity to consult with the committee prior to determination that their child is handicapped.

Before any child is given an individually administered battery of psychological tests for placement in a special educational program, the child's parent or guardian must give consent in writing. In case of appeal, the final approval of the enrollment of any eligible handicapped child in a special educational program shall be made by the board of education of the school district of the child's residence.

The committee, named above, shall review the placement of each child who is enrolled in a special educational program at least once every year.

In formulating recommendations for placement of a handicapped child, the committee shall work cooperatively with the department of institutions and shall be guided by the legislative declaration contained in section 123-22-2. **(Sec. 123-22-8 (CRS) (L)**

It is the intent of the general assembly, in keeping with accepted educational principles, that handicapped children shall be educated in regular classrooms insofar as practicable, and should be assigned to special education classrooms only when the nature of the child's handicap makes the inclusion of the child in a regular classroom unprofitable for him, and the services of special education personnel shall be utilized within the regular school programs to the maximum extent permitted by good educational practices, both in rendering services directly to children and in providing consultative services to regular classroom teachers. **(Sec. 123-22-2 (CRS) (L)**

The special committee recommends placement, but approval of the placement must be made by the board of education of the school district providing such program. All possible placements should be considered before the child is placed in any one program. **(R)**

Before any child may be dismissed from a special program, he must be considered and recommended for dismissal by the special committee. (R)

Boards of education of local school districts may expel or suspend children from the public school during the school year for behavior which endangers welfare, safety, or morals of other pupils. The children may be expelled or denied admission to the public school because of a physical or mental disability which renders the child unable to reasonably benefit from the available programs or because a physical or mental disability or disease causes the attendance of the child to be inimical to the welfare of other pupils. (R)

A speech correctionist must examine the child and determine that the child is eligible to receive speech correction. (R)

A physician must indicate that the child is eligible for a special program for the aurally handicapped. (R)

If the basic handicap of a child is other than aural, he may not be placed in the program for aurally handicapped. If the child has more than one handicap, the committee should consider placement in a program for the aurally handicapped only after it has considered all possible placements, including both in and out of the district. Such placement should be the best possible for the child and not merely an alternative, since a more suitable program is not available within the district. (R)

ADMINISTRATIVE RESPONSIBILITY

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The state board of education is responsible for maintaining qualified personnel to supervise special education through utilization of the existing facilities of the state departments of health, welfare, rehabilitation, and institutions whenever possible. The state board also has the authority to adopt reasonable rules and regulations for the administration of this article. (Sec. 123-22-5 CRS) (L)

The state school for the deaf and the blind will be under the supervision of the department of institutions. (Sec. 16-1-4 CRS) (L)

This article is administered by the department of education. Administration of this article shall include the recommendation to the state board of education of reasonable criteria, rules, and regulations; recommended minimum standards for facilities, materials, equipment, and personnel; and recommended assessment criteria for identifying handicapped children, their level of handicap, and the special services needed. The state board of education shall adopt appropriate recommendations following public hearings in several locations throughout the state with respect to the suggested criteria, rules, regulations, and standards. Recommendations adopted by the state board shall be in accord with the legislative declaration set forth in section 123-22-2. (Sec. 123-22-3 CRS) (L)

By July 1, 1973, every school district in the state shall be either an administrative unit in itself or in a board of cooperative services which shall be designated as an administrative unit. An administrative unit shall be a school district or board of cooperative services which meets criteria established by the state board governing the duties and responsibilities of the director of special education and is either a board of cooperative services which conducts special educational programs for all school districts which are members of the board of cooperative services or is a school district which meets criteria of geographic size, location, and number of pupils established by the state board to achieve maximum efficiency in administering programs of special education. Although the state board shall define the qualifications and the general duties and responsibilities of directors of special education, such directors shall be regarded for all purposes as employees of their local administrative units and subject to the administrative direction of such units. (Sec. 123-22-6 CRS) (L)

The department shall submit to the governor and the education committees and the joint budget committee of the general assembly an annual report of the type and number of handicapped children served and not served, what educational services are provided to them, and the total costs incurred for the services, whether state, federal, local, or privately funded. The report shall include a measurable qualitative evaluation of the education services rendered. The audit performed by the school district shall certify the number of pupils enrolled in special education programs and the numbers and salaries of reimbursable personnel. (Sec. 123-22-4 CRS) (L)

To comply with this section, the department shall maintain a data and information system on children, personnel, costs, and services. (Sec. 123-22-4 CRS) (L)

PLANNING

Each administrative unit shall submit a plan to the department no later than January 1, 1974, indicating how the school district will provide for education of all handicapped children between the ages of five and 21 no later than July 1, 1975. Each unit plan shall include the type and number of handicapped children in the unit based upon the department's [illegible] the services to be provided, and the estimated resources necessary. If any administrative unit fails to submit an acceptable plan by January 1, 1974, the state board shall provide a comprehensive plan by July 1, 1975 for the education of handicapped children within the administrative unit. (Sec. 123-22-6 CRS) (L)

By July 1, 1975, and thereafter, each administrative unit shall employ a "director of special education." From and after July 1, 1975, no director of special education shall be employed who does not meet qualification standards set by the state board. (Sec. 123-22-6 CRS) (L)

By July 1, 1975, [illegible] administrative unit shall employ a sufficient number of school psychologists and school social workers [illegible] for services to adequately carry out these functions that provide for teacher referral of children [illegible] handicapped, case finding and assessment, staffing of the special committee as provided for in section 123-22-7 (3) and (4), teacher and parent counseling and consultation, and inservice education for school staff. In submitting that portion of the plan to comply with this subsection (6), the administrative unit may indicate how it intends to utilize the services of existing mental health clinics or centers in carrying out the functions named above in cooperation and coordination with the school psychologists and school social workers. (Sec. 123-22-6 CRS) (L)

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[illegible] programs or services which do not reasonably satisfy the criteria [illegible] by the state board of education will be provided by the department [illegible] carried along with specific recommendations for their [illegible] for a reasonable period of time as determined by the [illegible] to allow the local district opportunity to satisfy the requirements [illegible] to establish a basis for variance based upon conditions [illegible] (Sec. 123-22-4 CRS(1)(L))

[illegible] its responsibilities for the implementation of this article [illegible] appropriate and shall be appointed by the state board. [illegible] special education teachers, at least two administrators [illegible] parents of children presently or formerly enrolled in special [illegible] from the department of institutions. Members shall be appointed for [illegible] two-year terms. (Sec. 123-22-4 CRS(1)(L))

FINANCE

If an administrative unit cannot provide an educational program for a handicapped child because of the unique [illegible] of the handicap, [illegible] unit may contract with another administrative unit to provide the needed [illegible] upon approval of the department. In such an instance, the administrative unit of the child's residence [illegible] the child's attendance an amount mutually agreed upon between the administrative unit of [illegible] and the administrative unit of the child's attendance. (Sec. 123-22-9 CRS(1)(L))

[illegible] under this section shall not be subject to proration under the provisions of [illegible] (Sec. 123-22-9 CRS(1)(L))

[illegible] special educational programs for handicapped children in an administrative unit, the department shall pay [illegible] of the child's residence for the maintenance [illegible] an amount equal to the [illegible] of the division of public welfare of the department [illegible] by the department. Such placement shall be made only [illegible] and such placements may be made in homes of relatives. (Sec. 123-22-10 CRS(1)(L))

An administrative unit may purchase and be reimbursed for materials and equipment for the education of handicapped children. To be eligible for reimbursement, the administrative unit shall maintain a special education instructional materials center and may employ a special education instructional materials specialist. A [illegible] may be operated as a part of [illegible] instructional materials center, but such center shall be [illegible] (Sec. 123-22-11 CRS(1)(L))

Any administrative unit [illegible] federal funds from any source for the education of handicapped children [illegible] provided in this article shall obtain prior approval from the department for the use of such funds. [illegible] in accordance with rules and regulations as established by the department [illegible] federal law or regulations. (Sec. 123-22-6 CRS(1)(L))

[illegible] administrative unit which maintains and operates special educational programs approved by the department for the education of handicapped children shall be entitled to reimbursement [illegible]:

1. [illegible] personnel which is attributable to special educational [illegible]
2. [illegible] of special education in an administrative unit at such administrator [illegible] as set by the state board; supervisors of special programs; [illegible] teachers of special education programs; school psychologists; [illegible] occupational therapists; physical therapists; special [illegible] instructional materials specialists; speech correctionists [illegible] registered school nurses.
3. [illegible] for handicapped children only after other funds [illegible] hospital or school equipment [illegible] and social workers employed by mental health [illegible]
4. [illegible] of handicapped children [illegible] per special education [illegible]
5. [illegible] in the education of handicapped children.
6. [illegible] children with similar handicaps in a licensed family home [illegible] (Sec. 123-22-14 CRS(1)(L))

Payments [illegible] shall in no way affect the amount of other state [illegible] (Sec. 123-22-14 CRS(1)(L))

[illegible] section (1) of this [illegible] maintenance in a family care home [illegible] (Sec. 123-22-14 CRS(1)(L))

[illegible] prior law for special educational programs [illegible] (Sec. 123-22-14 CRS(1)(L))

Reimbursements to any administrative unit under the provisions of this article shall in no instance exceed 100% of the attributable student cost when such reimbursements are combined with all other applicable state, private, and federal resources. In no case shall the local school district contribution per child under these provisions be less than the amount raised per pupil in average daily attendance entitlement in the district by the levy for the school district's general fund. (Sec. 123-22-14 CRS) (L)

There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to the department of education, for the fiscal year beginning July 1, 1973, the sum of $17,000,758 or so much thereof as may be necessary for the implementation of this act.

An administrative unit may contract with an institution of higher education, or a community center board, as provided in section 71-8-2, CRS 1963, for the provision by the administrative unit of an education and training program for handicapped children. By mutual agreement arrived at by the two agencies, the administrative unit shall place the responsibility for administering the program with the director of special education. (L)

Two agencies shall agree to an amount per child that the institution of higher learning or community center board shall pay to the administrative unit for providing such services. No school district providing an education and training program for handicapped children under contract with an institution of higher learning or a community center board shall count such children as regularly enrolled for the purposes of the "Public School Foundation Act of 1969". The institution of higher learning or community center board shall pay to the administrative unit providing the program an amount per child as agreed upon by the institution or board and the administrative unit but such amount shall not be less than the amount per child provided to the institution or board by the department of institutions for educational purposes pursuant to section 71-8-7(1) CRS, 1963. Any school district providing an education and training program for handicapped children domiciled in that district shall not be required to provide to an institution of higher learning or a community center board the amount required by section 71-8-21(3), CRS, 1963, on behalf of these children, but each such school district shall expend out of its own funds at least the amount required by the said section 71-8-21(3), CRS, 1963, in providing the program. (L)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If no special program exists in the school district of residence, the parent or guardian of the child or the board of education of the school district may apply for enrollment of the child in a special program existing in another district. After determining the eligibility and capability of the child and the benefits to be derived from such program enrollment and after approval of both boards of education, the child may then be enrolled in the program. Final approval of enrollment of any eligible handicapped child in a special education program is made by the board of education of the school district providing the program. A child may enroll for a trial period not exceeding nine months. (L)

Two or more school districts may contract with each other to establish special education programs, sharing the costs as specified in the contract. (L)

If a district has fewer than six children needing a particular type of special education, the board may purchase services from another district. (L)

When several districts combine to form a total pupil enrollment of several thousand or more, a director of special education may be employed. For large programs, a specialist in specific areas of handicap may be hired to supervise programs. (R)

The division of special education services provides consultant services to districts wishing to set up a cooperative program. (R)

For each child enrolled in a program other than in his district of residence, the state board will reimburse the district of residence up to $500 for maintenance in a licensed foster home or, in lieu of maintenance, 80% of the costs of transporting the child. (R)

SERVICES

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The cost of educating handicapped children may include the compensation of special class teachers, itinerant teachers, speech correctionists, supervisors of special programs, directors of special education, and [illegible] consultation and evaluation by psychiatrists, psychologists and social workers, individual instruction in hospitals or homes, nonschool equipment, maintenance in licensed foster homes and transportation to and from school. However, no state monies distributed to the above may be used for medical costs or for the erection or repair of school buildings. **(Sec. 123-22-4 CRS) (L)**

Psychologists will include anyone who is properly certified as a school psychologist by the state board of education or who is properly certified as a psychologist by the Colorado board of examiners or has a minimum of two years of graduate training in psychology supervised by a psychologist as defined above and is employed as a psychologist by an institution of higher education or hospital or agency supported at least in part by government funds. **(Sec. 123-22-23 CRS) (L)**

The superintendent of the state school for the deaf and the blind may spend any necessary monies from the appropriation for the support of the school to provide readers for blind residents of the state and graduates of the school who regularly matriculate and study for a degree in any institution of higher education or any conservatory of music approved by the board of trustees of the state school for the deaf and the blind. These funds may also be used to help defray expenses of deaf persons taking a collegiate course of instruction at Gallaudet College. **(Sec. 16-1-20 CRS) (L)**

The school for the deaf and the blind may establish a program of instruction in understanding the needs, problems and education of the deaf and blind for parents of deaf and blind children attending Colorado schools. The department of institutions may provide for the cooperation of the school with any other interested state agencies in carrying out this program. **(Sec. 16-1-26 CRS) (L)**

The superintendent of the Colorado School for the Deaf and the Blind may spend any money necessary out of the appropriation for the school to provide for the education and training of eligible deaf-blind students, or students having a multiple physical handicap of hearing, sight and speech in institutions outside the State equipped to provide the appropriate education and training for these students, or by employing a skilled person as a home teacher trained in teaching deaf-blind students or students having a multiple physical handicap of hearing, sight and speech. The compensation of any such person may not be greater in any one instance than the expense of the education of such pupils in an institution outside of the state.

Any institution selected or person employed for educational training of deaf-blind students or students having a multiple physical handicap of hearing, sight and speech must be approved by the board of trustees of the Colorado School for the Deaf and the Blind. **(Sec. 16-2-24 CRS) (L)**

Inter or intra-district transportation to attendance centers is furnished in school buses or private vehicles complying with the state regulations for school buses. **(R)**

State reimburses district [illegible] of costs after other state funds are deducted, including transportation funds. **(R)**

Class Size:

	NUMBER OF PUPILS	
	Minimum	Maximum
SPEECH HANDICAPPED		
Speech Correctionist (Caseload) (with itinerant or home instruction)		90*
EDUCATIONALLY HANDICAPPED (Emotionally Disturbed and/or Learning Disability)		
Special Class		10
Itinerant Program		15
Resource Room		15
AURALLY HANDICAPPED (Including Deaf)		
Elementary Program		8
Secondary Program		10 **(R)**

*Lower caseloads are recommended when travel requirements are heavy or the number of schools to be served is extensive. The speech clinician's caseload should be flexible and based on the children's needs.

PHYSICALLY HANDICAPPED		
Elementary Special Class	–	15
Elementary Resource Room	–	20
Elementary Itinerant Program	–	20
Secondary Program (All types)	–	2 **2**
Secondary Program (all types)		20
VISUALLY HANDICAPPED		
(Including Blind)		
Elementary Special Class	–	10
Elementary Itinerant Program	–	20
Secondary (all programs)	–	20

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The following kinds of programs for the handicapped may be established:

1. Self-contained classroom -- The child spends the major portion of his time in the special classroom receiving academic training and leaves the special classroom for non-academic subject and individualized integration into regular classes.

2. Resource classroom -- The child is registered in a regular classroom, does his regular work with the regular group and goes to the resource room and special education teacher for one or more periods a day for materials and special services as recommended by the special committee.

3. Itinerant teacher -- A specially trained teacher travels to the school and gives periodic specialized training, help, and materials to the child who is registered in regular classes, does his regular work with the regular classroom teacher but has been recommended by the special committee for this special help.

4. Home instruction -- When it is necessary that a child remain at home because of his handicap, the district may employ a teacher to go to the home of the child to instruct him. Such a program should be used very sparingly, and only when the child's educational needs cannot be met in any other way.

Each of the categories of handicaps may have the following organizations. Where the possibilities are more than one, it is recommended that the district [illegible] to provide [illegible] services, provide each of the possibilities: 1. Visually handicapped: self-contained classroom, resource classroom, itinerant teacher, home instruction. 2. Educationally [illegible] [illegible]: self-contained classroom, resource classroom, itinerant teacher, home instruction. 3. Speech handicapped: itinerant teacher, home instruction.

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Completion of such specialities as special education fields will usually and preferably be endorsed as additional specializations on certificates of Type A or B. Endorsement will be added without charge upon completion of prescribed courses and recommendation of preparing college or university.

Type A -- Elementary and Secondary

endorsed for grade level or teaching field or other education specialization -- valid for five years. Requirements: bachelor's degree or higher degree in an approved program, including student teaching or equivalent; institutional recommendation. Also to degree holders with five or more years of teaching experience in established elementary and/or

teaching experience in established elementary and/or secondary schools who achieve a satisfactory score on the NTE or other exam selected by the State Board of Education.

Type B -- Professional Teacher Certificate

endorsed as in Type A -- valid for ten years. Requirements: satisfactory completion of three or more years of service in established elementary and/or secondary schools under a Type A or equivalent certificate; satisfactory completion of a planned fifth-year program with a teaching objective, ordinarily qualifying for a master's degree; institutional recommendation.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

CONNECTICUT

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

CONNECTICUT

RIGHT TO AN EDUCATION

Constitution: "The fund, called the school fund, shall be made a perpetual fund, the interest of which shall be inviolably appropriated to the support and encouragement of the public or common schools throughout the state, and for the equal benefit of the people thereof." **(Art. VII, Sec. 2, Conn. Const.) (L)**

Compulsory Attendance Law: No school age child requiring special education shall be excluded or exempted from school privileges without the express approval of the secretary of the school board based upon appropriate professional advice. The secretary then reports any excluded or exempted child to the state agency responsible by law for any aspect of the welfare of the child. **(Sec. 10-76d, Conn. Gen Stats.) (L)**

Local boards of education may compel the attendance of any blind child until he reaches age 16 in an institution providing appropriate instruction. If the parents or guardians of the child do not consent, the director of the board may apply to the probate court in the district where the child resides. Reasonable notice of a court hearing must be given to the parents and guardians of the child. If the court finds the action warranted, they will issue an order concerning attendance of the child at a suitable school or institution. **(Sec. 10-296, Conn. Gen. Stats.) (L)**

Town boards [illegible]ucation and regional school districts shall make provisions necessary to enable resident children who [illegible]etween ages seven and 16 and who are in suitable mental and physical condition to attend a public day [illegible]ol for a period required by law. **(Sec. 10-220, Conn. Gen. Stats.) (L)**

Responsibilities: In accordance with the regulations of the state board, all town and regional school districts shall provide special education to all school age children requiring it until they graduate from high school or reach age 21, whichever occurs first. School districts may provide special services to those children with "extraordinary learning ability" or "outstanding creative talent." They may also provide education to those children below school age, if their educational potential would be irreparably diminished without it. **(Sec. 10-76, Conn. Gen. Stats.) (L)**

The law governing the education of the deaf at an institution, Section 1056 of the Connecticut General Statutes as amended by Section 348c of the 1935 Supplement, is not to be interpreted as a compulsory law. The education of a deaf pupil at an institution remains at the discretion of the governor. **(Op. Att'y. Gen., November 16, 1948)**

Section 10-295 of the 1961 Supplement to the General Statutes allows the State Board of Education for the Blind to provide for psychological therapy if needed to a legally blind child as well as special instructional services. **(Op. Att'y. Gen., February 5, 1963)**

Sections 192g to 203g of the 1943 Supplement to the General Statutes for the State of Connecticut outline the State's responsibility for the education of physically handicapped children between the ages of 4 and 21. These statutes do not entitle a physically handicapped child to attend college or a technical school after high school graduation. The state is only responsible for a high school education. **(Op. Att'y. Gen. March 21, 1945)**

A town is not required to furnish special education services to children with almost normal vision with the aid of glasses. **(Op. Att'y. Gen. April 24, 1945)**

Children institutionalized at Cedarcrest Sanitorium are entitled to an education if the physician in charge thinks the child is capable of learning. The town from which the child came is responsible for that education. No contract can be made by the town to have the institution provide the educational services. However, several towns may combine to provide the services at the institution. **(Op. Att'y. Gen., January 17, 1946)**

In *Kivell v. Nemoitin*, the plaintiff is 12-year old Seth Kivell, a learning disabled child who also is perceptually handicapped and the defendant is the Stamford (Conn.) Board of Education. The Stamford public school diagnostic team determined Seth to be in need of special education and recommended a program for him. The parents' independent psychologist, however, referred Seth to a private school on the grounds that the public school program would not meet his needs. In a hearing, the Commissioner ordered the district to submit a special education plan to him. Plaintiff sought reimbursement for out-of-state private education and development of appropriate programs in the Stamford school system. In a decision rendered July 18, 1972, plaintiff was awarded $13,400 for education costs. The order also directed the district to provide the plaintiff with the program needed, which means the local plan must be approved by the state board. The court also stated that in the future it will be the duty of parents to accept programs provided since they must be state approved. (lawsuit)

POPULATION

Definitions: " 'Exceptional child' means a child who deviates either intellectually, physically, socially, or emotionally so markedly from normally expected growth and development patterns that he is or will be unable to progress effectively in a regular school program and needs a special class, special instruction or special services."

" 'Children requiring special education' include an exceptional child who: (1) is mentally retarded, physically handicapped, socially or emotionally maladjusted, neurologically impaired, or suffering an identifiable learning disability which impedes rate of development and will be improved by special education; or (2) has extraordinary learning ability or outstanding talent in the creative arts, the development of which requires programs or services beyond the level of those that are ordinarily provided in a regular school program, but which may be provided for special education as part of the public school program."

"A 'physically handicapped child' is one who, because of a physical handicap as defined by the regulations of the state board of education, requires special educational program or services."

A mentally retarded child is ". . . one who by reason of retarded development, is not capable of profiting from the educational programs of the public schools established for the normal child, but does not include any child who requires custodial care, or who does not have clean bodily habits, responsiveness to directions or means of intelligible communications."

Serious social or emotional handicap means " a psychological condition stemming from inter-personal or intra-personal conflict which manifests itself in behavior which significantly impedes the child's rate of educational development and which can be corrected or ameliorated by special education to the extent that such child's rate of educational development may be improved."

Extraordinary learning ability is " the power to learn possessed by the top five percent of the students in a school district as chosen by the special education planning and placement team on the basis of (1) performances on relevant standardized measuring instruments, or (2) demonstrated or potential academic achievement or intellectual creativity."

Outstanding talent in the creative arts is "that talent possessed by the top five percent of the students in a school district who have been chosen by the special education planning and placement team on the basis of demonstrated or potential achievement in music, the visual arts or the performing arts."

A child with a learning disability is defined as a child with "a disorder in one or more of the basic psychological processes involved in language, perception, memory, or conceptualization, not including disabilities due primarily to visual, hearing or motor handicaps or to mental retardation, emotional disturbance or cultural disadvantage." **(G)**

Age of Eligibility: Services must be provided to children from age 5 until they graduate from high school or reach age 21, whichever occurs first. Services may be provided to hearing impaired children who will be three by January 1 of the school year and to all other handicapped children who will be four by January 1 of the school year. **(G)**

"The word handicap means, figuratively, any disadvantage that renders an achievement, or especially success in competition, more difficult. Handicapped persons are those at a disadvantage in economic competition because of physical or mental defects." The severity of a handicap, since it is considered a fuactual matter, would be the responsibility of the physician in charge. **(Op. Att'y. Gen., April 24, 1945)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

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Census: Each town board of education shall annually ascertain, by December 1, the names and age of resident children under age 21 [illegible] the names of the parents or persons in control of them. If a child [illegible] school [illegible] the reason for the non-attendance must be noted. (Sec. 10-249, Conn. Gen. Stats.) (L)

Screening: The board of education requires that all public school pupils have health examinations by a licensed medical practitioner or by the school medical adviser [illegible] to ascertain whether children suffer from any physical disability which would prevent them from receiving the full benefit of school work. (Sec. 10-206, Conn. Gen. Stats.) (L)

Assess & placement

Each town or regional board of education is responsible for providing the professional services necessary to identify those children within its jurisdiction who require special education, to determine their eligibility and to prescribe suitable educational programs for them and to make any reports the secretary may require. Immediately upon the formal identification of any child as a child requiring special education, the responsible town or regional board of education shall inform the child's parent or guardian of the laws relating to special education. (L)

The parent or guardian of a school age child requiring special education [illegible] may request in writing to the board of education of the school district responsible for providing such services a hearing for review of the diagnosis, evaluation or the special educational programs or the exclusion or exemption from school privileges of the child. The board shall hold the hearing [illegible] within ten days of receiving the written request [illegible] and a written copy of the board's decision [illegible] with a statement of the right of appeal. Any parent or guardian aggrieved by the decision of the board may appeal within 30 days to the state board of education [illegible] of the board of education of the school district [illegible] a copy of the decision to the parent or guardian and to the state board of education. (Sec. 10-76h, Conn. Gen. Stats.) (L)

Parents or guardians [illegible] who are aggrieved by the decision of the local board of education may appeal to the state board of education [illegible] responsible for providing the educational services [illegible]:

1. diagnosis,
2. evaluation of the special programs provided for the child by the board of education of the school district, or
3. exclusion or exemption from school privileges, as directed by the board of education of the school district.

The state board shall, upon receiving the request for the review, establish a hearing board consisting of no fewer than 3 persons knowledgeable in the fields and areas significant to the educational review of the child. Members of the hearing board may be employees of the state department of education or qualified persons from outside the department. No person participating in a previous diagnosis, evaluation or prescription of educational programs or exclusion or exemption from school privileges or review, or any member of the board of education of the responsible school district may be members of the hearing board. The hearing board shall hear the testimony of the party conducting the review and any other party directly involved, and they will review the previous diagnosis, prescription of special education services and other educational records of the child. Records are furnished by the board of education of the school district. They may hear any additional relevant testimony and may require a complete and independent diagnosis, evaluation and prescription of educational programs by qualified persons. The cost of this independent study is to be paid by the board of education of the school district responsible for providing services to the child.

The hearing board has the power to confirm, modify, or reject the diagnosis, evaluation, prescribed educational program, or exclusion or exemption of school privilege, and to prescribe alternate special education programs for the child. The board shall inform the parent or guardian and the board of education of the school district of its decision in writing. If the board of education of the school district responsible for providing special education for the child does not take action on the findings or the prescriptions of the hearing board within 15 days of receipt of them, the state board of education may take appropriate action to enforce the findings or prescriptions of the hearing board. Appeal of the decision of the hearing board is to the Court of Common Pleas in the district of residence of the child within 30 days of receiving the hearing board's decision. Members of the hearing board other than those employed by the state of Connecticut shall be paid reasonable fees and expenses on a schedule established by the state board of education. (Sec. 10-76h, Conn. Gen. Stats.) (L)

For children enrolled in special classes or receiving supplementary instruction or special services for longer than six months, evaluative study data must include reports concerning the child's developmental and social history, his educational history, and the psychological and medical evaluations appropriate for determining the nature and scope of the child's handicapping condition. Thus a complete psychological examination might be unnecessary for a child who is to receive a short term service, but would be necessary in most other cases. The planning and placement team determines the extent and overall content of the evaluative study. It does not necessarily perform the evaluation, but it evaluates all diagnostic data, reviews, and determines the child's placement. (G)

Whenever a child requires a special program, the parents should be advised of the nature of their child's exceptionality and the purpose of the proposed special education program and should receive reports of the child's progress. (G)

ADMINISTRATIVE RESPONSIBILITY

The state board of education is responsible for development and supervision of educational programs and services for children requiring special education. The board may regulate curriculum, conditions of instruction, physical facilities and equipment, size of the class, admission of students, and the requirements for special services and instruction provided by town or regional boards of education.

The board is responsible for supervising the educational aspects of all children requiring special education residing in or attending any childcaring institution and receiving money from the state. The secretary, by regulations of the state board, determines the procedures used to identify exceptional children.

The state board is also the agency for cooperating and consulting with federal agencies, other state agencies, and any private agencies on matters of public school education for children requiring special education. (Sec. 10-76b, Conn. Gen. Stats.) (L)

The school for the deaf is under the supervision of the state board of education and the school for the blind is under the state board for the education of the blind. (Sec. 10-245, Conn. Gen. Stats.) (L)

PLANNING

By February 15, 1972, the state board of education was to have presented a plan to the joint standing committee on education of the General Assembly for developing and operating regional day and residential programs for children requiring special education and whose needs could not be met under present public school arrangements. The plan must include feasibility and cost studies. (L)

The state board, using present personnel, is required to develop and keep current a five-year plan for implementing special education policy. The plan must include provisions for:

1. A census of children requiring special education showing both total number and geographic distribution;
2. An inventory of personnel and facilities available to provide instruction and other programs and services to children requiring special education;
3. An analysis of the present distribution of the responsibility for special education between the state and the state institutions, and local and regional boards of education, together with any recommendations for change;
4. The formulation of goals, objectives, and strategies;
5. A program for recruitment, preparation, and inservice training of professional, and supportive personnel in special education and allied fields including participation by institutions of higher education, state and local agencies, and any other appropriate public and private organizations;
6. Procedures for identification, screening, and diagnosis of children requiring special education and determination of the criteria for how these children should be educated;
7. Standards for education in town and regional programs and state institutions;
8. A program for developing, acquiring, constructing, and maintaining classrooms, resource rooms, and other facilities;
9. A policy for the roles of private schools and regional programs and services;
10. A delineation of the roles of program personnel and relationship of special education to the total educational program; and
11. An analysis of the present formula, levels, and patterns of financial support for special education and recommendations to insure the maximum use of funds.

The development of the state plan must include participation of representatives from state agencies, institutions, public and private colleges and universities, professional and parent groups and organizations, local school boards and other local government and civic organizations, and the general public. The plan must be submitted to the governor and the joint standing committee on education of the General Assembly by December 1, 1973. (L)

An advisory council for special education is established to advise the state board and the secretary and to engage in other activities. The advisory council is to be composed of 18 members who are not officers or employees of the state board of education. No more than four members may be employees of the state board of education. No more than four members may be employees of local or regional school districts. The advisory council must be composed of persons broadly representative of community organizations interested in children requiring special education, parents of the children, practicing members of professions concerned with these children's educational needs, and members of the general public. The members shall be appointed by the secretary of the state board for three-year terms. The advisory council shall annually elect its own chairman and any other officers. The advisory council members shall serve without compensation but will be reimbursed for reasonable expenses. The state department will provide secretarial and administrative assistance to facilitate the activities of the council. The commissioner for higher education shall also appoint a liaison person to the council. The council's responsibilities shall include:

1. periodic review of regulations, standards, and guidelines pertaining to special education and recommending to the state board any changes it finds necessary;
2. comment on new or revised regulations, standards, and guidelines; and
3. participation with the state board to develop a state plan for the provision of special education.

The advisory council shall annually review, with the joint standing committee on education of the General Assembly, progress made by the state in serving those children requiring special education and any recommendations for the improvement of special education of the state.

FINANCE

School districts providing special education for any exceptional children will be reimbursed in an amount equal to 66 2/3 percent of the net cost of providing the special education. Applications for reimbursement must be made by October 1. All reimbursements will be made by December 15. In any case where special education is being provided at a private institution and no school district can be found responsible, the reimbursement provided should be made payable to the institution, and for these purposes the institution shall be considered a school district. (Sec. 10-76g, Conn. Gen. Stats.) (L)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

No town is required to provide school accommodations to any child whose legal residence is in another state, unless a bond in the sum of $500 is issued by a state-authorized surety company. The bond is based upon parental payment of the child's tuition at the per capita cost of education. (L)

Any school district which agrees to provide special education as part of a long-term regional plan approved by the state board of education, for children requiring special education who reside in other school districts is eligible to receive a grant in an amount equal to the net cost to such district of providing, constructing, or reconstructing, and equipping appropriate facilities to be used exclusively for children requiring special education, if such facilities are approved by the state board of education and are an adjunct to or connected with facilities for children in the regular school program, except when the state board determines that separate facilities would be of greater benefit to the children participating in the special education program. Such grants are in addition to any grant received pursuant to other laws. Application for these grants must be made to the state board at such a time and in such a manner as the board prescribes. The board may make a grant in an amount equal to 100 percent of the cost of the facilities less any other public or private grants for these purposes. Upon certification of completion of the building project by the secretary, the comptroller shall pay the sum granted to the town or regional school district in a lump sum if the applicant town does the following:

1. The applicant town must agree to provide a special educational program for one or more types of exceptional children from at least one other town.
2. The applicant town must agree to provide the educational program for at least five years. Applications must include a description of a cooperative operational plan for the use of the regional educational facility.
3. The proposed program should promise to be stable, comprehensive, and of excellent quality.
4. The applicant town must describe the anticipated nature and cost of construction and equipment.
5. The proposal must guarantee the optimal participation of the exceptional children in all appropriate aspects of the general school program. The facilities for the exceptional children should be a part of a regular elementary or secondary school building. When it is appropriate, particularly in new school construction, classrooms for exceptional children should be integrated into the total physical plant. The secretary of the state board of education may make an exception to these requirements if he is satisfied that some other arrangement would be more beneficial to the educational progress of the children in the program.
6. There must be provisions of adequate pupil personnel and other ancillary services for exceptional children to be served.
7. Facilities must be used exclusively for those exceptional children the applicant town has agreed to serve unless all eligible children in the several towns have been enrolled in the regional approach and there is space temporarily still available in the regional education facility.
8. The proposal may represent an expansion of an existing special education program or the initiation of a new program. (L)

Any local or regional board of education may apply. However, regardless of the number of towns involved, only the town where the regional facilities will be provided should apply to the state board of education. The applicant town should obtain commitments from its neighboring towns as to their willingness to participate in regional educational plans. (L)

The state board of education will consider the following criteria in its consideration of the application:

1. The probability of excellence of education programs for exceptional children.
2. The need for such a regional educational facility in the region itself and the relative need in one region of the state as compared to others.
3. The scope of the program: (a) number of local boards of education to be served, (b) types of exceptional children to be included, and (c) the overall number of exceptional children to be served. (On a state-wide basis, the state board will seek to support facilities for as many different types of exceptional children as possible.)
4. The effect of the proposed program on existing programs in the districts to be served to those now serving these districts.
5. The length of time the regional educational facility will be committed to the use of exceptional children.
6. The relative costs of proposals. (L)

Interested boards of education should request an application from the bureau of pupil personnel and special educational services.

The state board will appoint a review committee to decide which towns receive grants. (L)

Payment to the applicant town will be made upon completion of construction or alteration and equipping the facility and after inspection by the appropriate staff of the state department of education. Final decisions as to the amount to be paid toward the cost of construction or alterations and equipping shall rest with the state board of education who also has the authority to determine the reimbursability of all items of equipment and to indicate the minimum physical requirements and the equipment required. (L)

SERVICES

BEST COPY AVAILABLE

“‘Special education’ means special classes, programs, or services designed to meet the educational needs of exceptional children in accordance with the regulations of the secretary subject to the approval of the state board of education.” (Sec. 10–76, Conn. Gen. Stats.) (L)

Town or regional boards of education may contract with any sheltered workshop or rehabilitation center to provide educational occupational training for children requiring special education and who are at least 16 years of age, if the workshop or institution has been approved by the state board of education. (Sec. 10–76d, Conn. Gen. Stats.) (L)

When providing special education services, town or regional school districts shall provide transportation, tuition, room, board, and any other necessary items unless a child is placed in a residential facility because of needs other than educational. The financial responsibility of the district is limited to the reasonable cost of education as defined by regulations of the state board. (Sec. 10–76d, Conn. Gen. Stats.) (L)

Either through public or private school arrangements, each local board of education is required to provide for each handicapped child in accordance with his educational needs, a special class, supplementary instruction, pupil personnel services and such similar instructional supporting services as may be necessary for the education of such child in the opinion of the superintendent of schools, which opinion is based upon appropriate professional advice.

1. When the program planning team has determined that a child needs a special education program in the school setting, the board of education shall provide such a program as soon as possible, but in any event within a period no longer than 12 weeks from the date of such determination.

Special education may include special instruction, special services, or both, according to the child's educational needs. Insofar as possible and consistent with their educational needs, children should be maintained in the regular

school program, and provided such supplementary instruction or special services as may be required. However, when special class placement is the desirable program, such special classes must be provided. Children in these classes are entitled to such other regular and special instruction or services as they may need. (See Definitions.) (G)

2. The board of education is required to establish a special class for preschool or school age handicapped children, as the case may be, when there are at least four preschool or six school age handicapped children for whom special education is required by law and who need and may be taught together effectively in a special class.

If establishment of such a class is not feasible, or if there are fewer than the requisite number of children, the board should seek to place each such child in an appropriate special class in another public school district or make other arrangements acceptable to the secretary of the state board of education. Also, if establishment of a special class in a local school district is not reasonable for reasons of program quality and development, such districts are encouraged by this department to develop programs on a cooperative basis with other local boards of education.

A board of education may be required to establish special classes for deaf or hearing impaired children instead of sending them to Mystic or the American School for the Deaf, if the parents so request and if it appears that such a special class would be beneficial to the child's educational progress.

A board of education may not make arrangements with private schools for the special education of children whose needs for a special education program or service can be met within the local school district staff or by arrangement with other local districts. (G)

Transportation by school bus is furnished for children attending special classes, work experience programs, special programs in other school districts, or approved private special education programs. (R)

When providing special educational services, town or regional school boards must provide transportation. For state reimbursement purposes transportation is considered part of the net cost of providing special education except when children ride on a bus with regular class pupils. (R)

Class Size:

	NUMBER OF PUPILS	
	Minimum	Maximum
AURALLY HANDICAPPED		
Speech and Hearing Clincian (Average monthly caseload)		65
SPEECH HANDICAPPED		
Speech and Hearing Clincian (Average monthly caseload)		65

School districts are required to establish a class whenever there are six handicapped children of school age or four of preschool age within the district. (G)

	Minimum	Maximum
EDUCABLE MENTALLY HANDICAPPED	--[9]	--[9]
TRAINABLE MENTALLY HANDICAPPED	--[9]	-- --[9]
PHYSICALLY HANDICAPPED	--[9]	--[9]
EMOTIONALLY DISTURBED		
Special Class (Preschool)	4	--
Special Class (School Age)	6	--
LEARNING DISABLED	--[9]	--[9]
MULTIPLY HANDICAPPED	--[9]	--[9]
VISUALLY HANDICAPPED	--[9]	--[9]
BLIND	--[9]	--[9]
DEAF		
Special Class (preschool)	4	--
Special Class (School Age)	6	--

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[9] Class size not specified, but subject to approval of the secretary of the state board of education.

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A school system may receive handicapped students from another school system and be paid tuition even though they feel the sending school system has adequate facilities. It is not for the receiving school system to decide, but it is the sending school system's decision. A school system, then can receive state grants, federal grants and other moneys for the education of there handicapped children and use the funds as tuition payments to other school systems to provide the services. **(Op. Att'y. Gen., June 13, 1966)**

A parent may ignore the facilities of their school system and place their handicapped child in another community's facilities if their school system does not provide special education. Tuition would be paid by the local school system which did not have facilities. **(Op. Att'y. Gen., April 24, 1945)**

Section 1002d of the 1955 Supplement to the General Statutes allows the State Board of Education to reimburse local school systems for the purchase of educational devices or equipement to teach blind pupils. **(Op. Att'y. Gen., July 23, 1957)**

The lending of the equipment to students is to be a policy to be determined by each individual case. No specific restrictions are made. **(Op. Att'y. Gen., December 10, 1957)**

The school system, however, is not allowed to give the equipment to the handicapped child even after, say 10 years and the equipment is old and used up. **(Op. Att'y. Gen. March 23, 1966)**

PRIVATE

Any regional or town board of education may provide necessary services to exceptional children with the consent of the parents or guardians by making agreements with any private school or public or private agency or institution. Expenditures made by a contract with a private school agency, or institution are not reimbursable unless the special educational needs of the child cannot be met by a public school arrangement.

The secretary, prior to granting contract approval, must consider factors including the particular needs of the child, the suitability and efficacy of the private program, and the economic feasibility of comparable alternatives. If the child is identified as needing special education and the board of education determines that his special education needs can be met within the district or by agreement with another district except for the child's non-educational needs, such as medical, psychiatric, or institutional care, the board may meet its obligation to furnish special education for the child by paying the reasonable cost of it in a private school, hospital, or other institution. The board or secretary must concur that such placement is mandatory to provide necessary services. **(Sec. 10-76d, Conn. Gen. Stats.) (L)**

Cooperative planning for the child should include the parents, as well as representatives of agencies with responsibilities related to the child's education, and should be based upon the best professional advice available concerning the child's educational needs. **(R)**

Private school placement by parents on their own does not commit the board to pay for such a program. However, a board's inaction does not relieve it of its responsibility to provide a satisfactory program. If private placement is found necessary, the Board may be obliged to pay special education costs incurred while the board's action was pending. **(R)**

Placements may be approved for schools both within and without the state. **(R)**

Schools must be approved by the Connecticut or other state department of education or some evidence of the institution's competency will be required. **(R)**

The contract must provide for exchange of essential information between the board and the institution, reports of progress and attendance or important changes accomplished by the school, and reasonable visiting rights by public school authorities and parents. **(R)**

"The Board of Education of the Blind has no authority under Statute to defray the cost of instruction of a blind child at a private school, not under the jurisdiction of a local board of education." **(Op. Att'y. Gen., August 30, 1962)**

A non-profit organization set up a day care program for cerebral palsied children. The majority of the children are mentally retarded but the program also has mentally retarded pupils who are not cerebral palsied. This program does not qualify for grants to day care centers for the mentally retarded under Section 19-4d of the general statutes. The reasons given are: (1) there is no distinct program for the mentally retarded children who are not cerebral palsied; and (2) the day care center must "be devoted primarily to the training of the retarded to the regimen and procedures necessary for their satisfactory adjustment" to special classes in public school. **(Op. Att'y. Gen., May 8, 1969)**

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Special Education

preparation for the mentally retarded, physically handicapped, learning disabled, and the emotionally disturbed shall be certified under a single Special Education Certificate. Preparation shall include a bachelor's degree with training in Psychoeducational Theory and Development of Handicapped Children, Diagnosis of Handicapped Children, Program Planning and Evaluation of Handicapped Children, Curriculum and Methods of Teaching of Handicapped Children, and at least two practica in Special Education. Preparation for the blind, partially sighted, deaf, speech correction, and hearing conservation shall follow the same basic preparation as for certificate no. 3 (if for grades 1-8 or 1-12) or certificate no. 4 (if for grades 7-12) with 12 additional hours in specified area of each type of special education. For the Special Education Certificate standard certification will be issued upon three years of successful teaching experience with handicapped children covered by this certificate and the completion of a master's degree in Special Education or completion of a planned program at an approved institution which shall consist of at least 30 semester hours credit beyond the bachelor's degree, including 15 hours in Special Education other than those courses taken for Provisional Certification. Standard certificates for the blind, partially sighted, deaf, speech correction, hearing conservation shall be issued upon three years of successful experience and completion of a fifth year.

Certificate No. 3 - Elementary

bachelor's degree including general education (75) and professional education (30), student teaching (6), endorsement for various combinations of nursery school-kindergarten-grade 8, depending upon recommendation of the preparing institution.

Certificate No. 4 - Secondary

bachelor's degree, including general education (45), professional education (18), student teaching (6), valid grades 7-12 for the subjects endorsed.

FACILITIES

If districts agree to provide special education as part of a long term regional plan approved by the state board for children residing in other school districts, they are eligible to receive an amount equal to the net cost of providing, constructing or reconstructing, and equipping appropriate facilities to be used exclusively for these children. Facilities, in order to be approved by the state board, must be adjunct to or connected with facilities in the regular school program unless the state board determines that separate facilities will be of greater benefit to the children requiring special education. These grants supplement any other aid received for special education. Upon completion of the building project the comptroller pays the lump sum granted to the district for the regional school. (Sec. 10-76e, Conn. Gen. Stats.) (L)

STATE PROFILE

DELAWARE

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

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RIGHT TO AN EDUCATION

Constitution. "The General Assembly shall provide for the establishment and maintenance of a general and efficient system of free public schools, and may require by law that every child not physically or mentally disabled shall attend the public school, unless educated by other means." (Art. X, Sec. 1, Del. Const.) (L)

Compulsory Attendance Law. All parents, guardians, or other persons having control of a child between the ages of seven and 16 are required to send the child to a free public school each day during the school year. The compulsory attendance requirement does not apply to children whose physical or mental condition, as attested to by a physician's certificate, renders instruction inexpedient or impracticable. (Sec. 2702 and 2705 DCA) (L)

Responsibilities. The state board of education and local boards shall maintain appropriate special classes and facilities, whenever possible, to meet the needs of all handicapped, gifted, and talented children recommended for special education and training coming from any geographical area within the state served by special facilities. (Sec. 3103 DCA) (L)

"The preamble to the 1957 amendment to Chapter 31 of Title 14 provides that it is the obligation of the State of Delaware to provide for all of its children but that at this time certain children of limited ability (retarded) are not receiving an adequate education." (Op. Att'y. Gen., October 17, 1969)

Parents are only responsible for the "reasonable education" under 13 Del. C. 702. of their child. (Op. Att'y. Gen., October 17, 1969)

Catholic Social Services, Inc. v. Board of Education is a lawsuit involving four handicapped children -- two with emotional problems, one socially handicapped, and one possessing a psychiatric disability -- against the Delaware State Board of Education. Plaintiffs allege that the Board has failed to provide them with their legally guaranteed education. The plaintiffs seek that defendants provide special education for the petitioners and that special education in the state be investigated and plan be developed. An administrative proceeding before the state board of education was filed August 24, 1971. Plaintiffs were placed in appropriate programs before any formal legal action was taken.

POPULATION

Definitions. " 'Handicapped children' means children between the chronological ages of four and 21 who are physically handicapped or maladjusted or mentally handicapped.

"Educable mentally handicapped children' means children who, because of retarded intellectual development as determined by individual psychological examination, are incapable of being educated properly and efficiently through the regular classroom program but who may be expected to benefit from special educational facilities designed to make them economically useful and socially adjusted."

"Trainable mentally handicapped children' means children who are incapable of being educated or trained properly as determined by individual psychological examination in special classes for educable mentally handicapped children in public schools and state institutions but who may be expected to benefit from training in a group setting designed to further their social adjustment and economic usefulness in their homes or in a sheltered environment."

"Physically handicapped children' means children who suffer from any physical disability making it impracticable or impossible for them to benefit or participate in a regular classroom program at the public schools and whose proper education requires modification of the regular classroom program."

"Socially or emotionally maladjusted' means those children whose behavioral disorders are such that it is impossible for them to be educated properly and efficiently through a regular classroom program, and who may upon recommendation of the chief administrative officer of a school district or of a state institution (if committed to its care or under direction) be assigned to such classes in accordance with policies set forth by the state department of public instruction for their establishment and operation."

"Learning disability' means children who exhibit disorders in one or more of the basic psychological or physiological processes involved in understanding and in using spoken or written language. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling or arithmetic. They include but are not limited to conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and/or developmental aphasia. They do not include learning problems which are due primarily to visual, hearing or orthopedic handicaps, to emotional disturbance if they are provided for elsewhere, or to mental retardation or to environmental disadvantage."

"Gifted children' means children between the chronological ages of four and 21 who are endowed by nature with high intellectual capacity. "Gifted children" are those children who have native capacity for high potential intellectual attainment and scholastic achievement."

"Talented children' means children between the chronological ages of four and 21 who have demonstrated superior talents, aptitudes, or abilities. "Talented children" are those children who have demonstrated outstanding leadership qualities and abilities or whose performance is consistently remarkable in the mechanics, manipulative skills, the art of expression of ideas, orally or written, music, art, human relations, or any other worthwhile line of human achievement." (L)

"Speech handicapped children" are those whose speech is considered defective when it deviates so far from the speech of others that it (1) calls attention to itself, (2) interferes with communication, or (3) may cause undesirable or inappropriate behavior.

"Hearing handicapped children" are those whose hearing loss is relatively mild and of such a degree to necessitate therapeutic or remedial programming without placement in a special school for the hearing impaired.

"Hearing impaired" is the general term for malfunction of the auditory sensory modality." **(R)**

"A 'deaf child' is one whose hearing loss is so great that, even with amplification, the natural acquisition of speech and language is severely limited or prevented." **(R)**

"A 'hard of hearing child' is one whose hearing loss is relatively mild but sufficient to require special educational opportunities." **(R)**

Age of Eligibility: Children may receive special education services between the ages of four and 21. **(Sec. 3101 DCA) (L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: All superintendents, principals, teachers and visiting teachers in every school district, in accordance with state board rules, will report to the school board by May 15 of each year and throughout the year as new cases are discovered, all children within the district between the ages of four and 21 who because of apparent exceptional physical or mental conditions are not being properly educated and trained. **(L)**

Screening: The identification of suspected exceptionalities as early in the child's life as possible is essential. It is necessary that districts identify need of exceptional preschool children (birth to five) and school age children (five to 21) not presently in school and provide for an orderly development of special education programs.

The responsible district administrator shall establish procedures for implementing the identification and assessment process. The following procedures are suggested for inclusion in the early identification process: (a) involvement of public and private agencies and professional associations at all levels, and (b) involvement of school resources such as district newsletters requesting parents to inform the district of exceptional children, the PTA, and questionnaires sent home via pupils.

The district is expected to develop identification and assessment procedures that should provide for both children presently enrolled and children coming into the district. The procedures should include a format for collecting and recording data. Suggested sources of data are: (a) school health record and other medical data, (b) cumulative folders (research into attendance, grade advancement or repetition, academic record, attendance record and prior test results), (c) measuring instruments in the areas of perception, mental abilities and achievement (the choice of group and individual tests used should reflect sensitivity to the language and cultural background of the child and his family), (d) anecdotal records and teacher observation of performance in academic areas and observations of personal and social behavior, (e) parent interview, and (f) student opinion from attitude scale and open-ended questions.

The data should be screened at the local administrative level with appropriate referrals being made to the appropriate local administrator for action and follow up. **(R)**

Assessment and Placement: The state board may direct, with the aid of cooperating agencies, the examination of all children and discover if the child is a fit subject for special instruction and training. **(Sec. 3105 DCA) (L)**

Evaluations are conducted on an individual basis and may include one or more of the following as appropriate: (a) diagnosis, (b) sensory evaluation, (c) psychological evaluation, (d) medical evaluation, (e) psychiatric evaluation, (f) sociological evaluation, and (g) staff input. **(R)**

Speech and hearing handicapped children are identified by one or more of the following methods: (1) survey screening of all children enrolled in a school and in specific grades, (2) teacher referral, (3) staff or specialist referral, and (4) previous enrollment in program. **(R)**

The rules and regulations of the state board will provide for the establishment of evaluation and placement committees in the school districts to evaluate candidates for enrollment into classes for children with learning disabilities and to recommend appropriate placements to parents or legal guardians of children and the superintendent of the school district. Each placement committee must contain a psychologist and a psychiatrist licensed to practice in the state. No more than two percent of the enrollment of any school district may be enrolled in the category designated as "learning disabilities." No state expenditures for classes in this category will be authorized unless qualifications of the teacher and the instructional program have been approved by the state board.

If the evaluation and placement committee certifies the child cannot be adequately served in any of the units described for handicapped children including those with learning disabilities or if a unit for learning disabilities is unavailable in the district of residence or a district within reasonable transportation distance of the home of the child, the committee may recommend to the parents or legal guardian of the child and to the superintendent of the district of residence that the child attend a specialized public or private school in Delaware or in another state. **(Sec. 1703 DCA) (L)**

The state board of education is responsible for prescribing rules and regulations for the physical examination of children and for the mental examination of children who have made no advancement in their studies for three successive years of regular attendance. **(Sec. 122 DCA) (L)**

All placement in special classes should be for a trial period. The parent will be notified in writing of the committee's findings and recommendation. A parent conference will be arranged to advise the parent of the placement review, dismissal and appeal procedure and to obtain parental permission for a child's placement. If the parent refuses to accept the recommendation, the committee will consider alternative programming. The placement of all children shall be reviewed at least once a year. When the recommended placement cannot be made, temporary alternatives must be explored and implemented.

The procedures developed by the local education agency should provide that the child's teacher(s) is (are) responsible for developing an individual prescription.

The teacher should be responsible for continually reviewing the progress of every child and making recommendations for reassignment to a more appropriate learning situation.

Children are scheduled for enrollment in therapeutic and remedial programs only at the discretion of the speech and hearing specialist. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The state board is responsible for adopting rules and regulations for the education, training, and transportation of the handicapped and exceptional children. (Sec. 3102 DCA)(L)

The state board of education is responsible for the care and education of all deaf persons in the state. These responsibilities are in addition to any other duties which it may have in regard to deaf persons. (Sec. 3106 DCA)(L)

PLANNING

An advisory committee appointed by the governor on the needs of exceptional children will serve in an advisory capacity to the state board of education and the board of trustees of the state hospital at Farnhurst.

Finance

Units will be granted for the education of exceptional children under the following formulas:

1. Classes for the educable mentally handicapped — one unit for 15 children
2. Classes for the trainable mentally handicapped — one unit for six children
3. Classes for the socially and emotionally maladjusted — one unit for 10 children
4. Classes for [illegible] — one unit for 10 children
5. Classes for the orthopedically handicapped — one unit for 10 children
6. Classes for the deaf and hard of hearing — one unit for eight children
7. Classes for the blind [illegible] approved by the state board and the commission for the blind — one unit for eight children; and
8. Classes for those children designated as learning disabled — one unit for eight children.

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A major fraction will be counted as a unit and will consist of any fraction greater than one half. Exceptional children will not be counted in any other calculation of units. (Sec. 1703 DCA)(L)

The growth of special education programs for children with learning disabilities and those defined as socially and emotionally maladjusted is restricted. The number of approved units is restricted in the following manner: the growth in the total number of state units certified for learning disabilities for each of the fiscal years ending June 30, 1972 and June 30, 1973 shall be limited to 10 percent of the total state units certified as of September 30 of the preceding year. The growth in the total number of state units certified for emotionally or socially maladjusted children for each of the fiscal years ending June 30, 1972 and 1973 shall be limited to 10 percent of the total state units for these children certified as of September 30 of the preceding year. No further growth in the total number of units shall be allowed for subsequent fiscal years without the approval of the General Assembly. All new units shall be allocated on a priority basis by the superintendent of public instruction no later than March 1 of each year. (This law has been declared unconstitutional by the attorney general.) (Sec. 1703 DCA)(L)

The state board of education shall use or transfer for use to local school districts and state institutions any funds appropriated to it for any aspect of the education or training of handicapped, gifted, or talented children. (Sec. 3104 DCA)(L)

The educational program in a hospital should not be included in the cost of care, maintenance and support of the child in the hospital. (Op. Att'y. Gen., October 17, 1969)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

In case an exceptional child attends a special class in another district, a special application form must be processed to enable the child to attend a school outside his home district.

If a handicapped child attends a special education class operated by a district other than his district of residence, or by the state department, the child's district of residence will pay a tuition charge to the other school district or the state department of public instruction. The funds for the tuition will be raised by a local tax levied for this special purpose.

The tuition charge will be determined by adding the current year's estimated expenses for salary supplements for the staff of the special classes, based on a schedule not higher than the schedule in force in other schools in the district, [illegible] and other expenses due to the operation of the special class [illegible] school year. The total will then be divided by the number of children [illegible] special class [illegible] the current school year. (L)

SERVICES

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All districts having classes for the trainable mentally retarded or for the orthopedically handicapped, or for the partially deaf or hard of hearing, may employ necessary attendants or aides subject to the regulations of the certifying board. (Sec. 1324 DCA) (L)

The state board may contract with a local school district to reimburse a district for all or part of the cost of [illegible] handicapped [illegible] instruction [illegible]. (Sec. 3109 DCA) (L)

The program for the deaf at the Sterck School in the Newark School District will include programs for [illegible] (R)

The state board makes rules and regulations for the transportation of handicapped and gifted and talented children.

Regulations imply that transportation is furnished only within the state to both day classes and residential facilities in the public school system.

School buses, carry-alls, and station wagons may be used to transport handicapped children. (R)

Each school bus for the orthopedically handicapped or trainable mentally handicapped children must have an attendant. Carry-alls or station wagons need not have an attendant, unless a special class, i.e., a blind or non-ambulatory student, makes an attendant necessary. Bus attendants should be employed as a part of the transportation system and will have no other school duties. (R)

Class Size

	NUMBER OF PUPILS	
	Minimum	Maximum
EDUCABLE MENTALLY HANDICAPPED		
Special Class	8[10]	22[10]
TRAINABLE MENTALLY HANDICAPPED		
Special Class	6[10]	10[10, 11]
SPEECH HANDICAPPED		
Speech and Hearing Therapist (caseload)	--	100
Speech and Hearing Therapy Session	--	5
EMOTIONALLY DISTURBED		
Special Class	10	--
PHYSICALLY HANDICAPPED		
Special Class (Orthopedically Handicapped)	6[10]	15[10]
LEARNING DISABLED		
Special Class	5[10]	12[10]
AURALLY HANDICAPPED		
Special Class	5[10]	12[10]
Speech and Hearing Therapist (caseload)	--	100
Speech and Hearing Therapy Session	--	5
OTHERS		
"Varying Exceptionalities"		

[9] Class size not specified, but subject to approval of the secretary of the state board of education.

[10] Implied by unit funding regulations.

[11] Class may be larger if a teacher aide is employed.

To be effective, speech and hearing evaluations and therapies must be provided in a regularly assigned teaching space. This space shall meet minimum classroom standards with respect to lighting, heat, ventilation, etc., and should be located free from major sources of noise and have necessary acoustical treatment to insure minimum noise levels. Office space for files and pupil records should be provided.

The following equipment should be immediately available to the speech and hearing clinician: (a) Tape recorder (b) Auditory training unit (c) Amplifying unit for auditory stimulation (d) Pure tone audiometer (or easy access to such equipment) (e) One or more large mirrors for use in visual learning (f) A variety of special materials such as phonograph records, tapes, children's books, audiovisual materials, test materials, etc. (g) If children with physical handicaps are included, special items of furniture appropriate to their needs must be provided; and (h) Adequate professional books and journals as a part of the district or general school professional library.

PRIVATE

Learning disabled and blind are eligible for private placements.

If an evaluation and placement committee determines that a child cannot be adequately served in any of the units for children with learning disabilities or if such a unit does not exist in a district or within reasonable transportation distance, the committee may recommend to the [illegible] that the local superintendent [illegible] specialized public or private school.

In the case of a blind child, the commission for the blind may recommend to the governor that the child be placed in a private institution. The governor may approve or disallow such placement.

Any recommendation for assignment outside the Delaware public school system must be referred to the state superintendent for approval or disapproval.

If a child is placed in a private school, the district of residence must include in their budget a separate amount in state funds to cover the cost of tuition, transportation, and housing for the specialized assignment. This amount may not exceed the average expenditure per pupil of state funds from the preceding year. This amount is not counted against the district's allocation for other unit purposes nor shall the district count the student in their count by which units are determined for the school district. If the evaluation and placement does not coincide with the budget presentation, the amount will be drawn from the education contingency fund. (14)

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Teacher of Exceptional Children

trainable and educable mentally retarded, partially sighted and/or emotionally maladjusted, orthopedically handicapped. Requirements Certificate Nos. 7 or 12 for teen-age mentally retarded, including or plus courses in specialized professional preparation.

Homebound and Hospitalized

requirements - a teaching certificate appropriate to the level of assignment, two years of successful classroom teaching experience, 10 hours in child behavior, exceptional children, measurements, and abnormal psychology or mental hygiene.

Certificate No. 7

elementary required for grades 1-6, and valid for grades 7-8 and in the middle school grades 5-8. Bachelor's degree, including general education (60), professional education (30) including student teaching.

Certificate No. 12

senior high school - academic subject matter areas -- bachelor's degree, 60 hours in general education, 18 in professional education, including student teaching.

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

STATE PROFILE

DISTRICT OF COLUMBIA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Compulsory Attendance Law: All children between the ages of seven and 16 are subject to the compulsory education requirements. **(Sec. 31-201 Rev. Stats.) (L)**

The District of Columbia board of education may issue a certificate excusing a child from attendance if the child is found mentally or physically unable to profit from attendance in school, upon examination ordered by the board. If the examination shows that the child may benefit from specialized instruction adapted to his needs, he shall attend if such instruction is available. **(Sec. 31-201 Rev. Stats.) (L)**

Responsibilities: Education for all handicapped children and due process procedures were mandated by the decision in *Mills v. Board of Education of the District of Columbia*, 348 F. Supp. 866 (D.C. 1972).

In *Mills v. Board of Education of the District of Columbia*, plaintiffs include seven handicapped children and the class similarly situated. The District of Columbia Board of Education, the department of human resources and the mayor are the defendants. It is alleged that children were denied educational opportunities and exclusion procedures violated due process requirements of the 5th amendment. It is also alleged that the board of education had an opportunity to provide appropriate services but had not done so. Appropriate educational opportunities for plaintiffs and guarantee of their rights are sought. On December 20, 1971, the court ordered the placement of plaintiffs by January 3, 1972, and the identification of all handicapped children. Defendants claimed insufficient funds, but the court declared that was no excuse for noncompliance and individual program plans were required within 20 days. The court retains jurisdiction.

POPULATION

Statutes contain no specific provisions for the handicapped in this area.

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: The commissioner of education is directed to ascertain the number of blind children and deaf children resident in schools in the District of Columbia over the age of six and under age 18. **(Sec. 4864 Rev. Stats.) (L)**

Screening: Screening of children for speech defects is done in second and seventh grades in the fall of each year. Screening has also been done in kindergarten and first grade in selected Title I schools. **(R)**

The speech clinician consults educational and related medical personnel concerning handicapped children and makes his own referrals for children in need of therapy. He must diagnose, plan and execute effective speech and/or language therapy for children from preschool programs through grade 12. **(R)**

ADMINISTRATIVE RESPONSIBILITY

Special education in the District of Columbia is under the supervision of the board of education. **(Public Law, 254, Organic Law of 1906, Sec. 2) (L)**

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

Speech correction services are provided under regular budget school funding for students with speech defects at all grade levels of the school system. Under the category "speech defects" are listed such problems as articulation disorders, voice, stuttering, and language delay. These defects may be associated with aphasia, cerebral palsy, cleft palate and hearing loss. Individual and/or small group therapy is rendered depending on need and limitations of space and time of personnel. **(R)**

A federally funded Title I program supplements the regular budget program for children in schools designated for Title I funds. **(P)**

The regular school budget for the 1973-74 fiscal year carries salaries for 71 speech and hearing therapists; the Title I budget carries 10 salaries for speech therapists only. Incidentally, at least one of these salaries is allocated to non-public schools to provide speech services. **(R)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Statutes contain no specific provisions for the handicapped in this area.

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SERVICES

The speech correction and hearing center, a division of pupil personnel services, has responsibility for the administration of the itinerant speech, hearing, and language services. **(R)**

Hearing therapy is provided for students having from moderate-to-severe hearing loss who are attending regular classes at all grade levels. Most of these students are wearing hearing aids. The itinerant hearing therapists provide auditory training, speech reading, and other habilitative services as each individual requires. Hearing testing for all children is the responsibility of the department of human resources. **(R)**

Equipment is procured through the pupil personnel centers and placed on loan for therapists. Also each new speech suite is equipped with at least a tape recorder, and a record player.

Supplies and materials are furnished either through the pupil personnel centers, or from each individual school.

The following programs are in effect at the Grant School 21st and G Street, NW.

1. program for the hearing impaired. Students in the program for the hearing impaired follow the regular curriculum where possible, adjusted to their individual needs. Students have the daily use of audiometric equipment as well as their individual hearing aids. Lip reading and auditory training skills are taught individually and as an integrated part of the total program.

   Students who are profoundly hearing impaired are given every opportunity to learn oral communication skills.

   The older boys and girls (13-16 years of age) are transported to and from Francis Junior High Schools for non-academic skills of woodwork and cooking. They also eat lunch at Francis. **(R)**

2. communication disorders. Students enrolled in the program for communication disorders work extensively on language development. Students are grouped according to their language needs in order to give individualized instruction.

   The staff of ten classroom teachers, counselor, art teacher, three educational aides and program director is dedicated to the principle of educating students with hearing and language handicaps. In addition to the above named staff the school receives the services of a speech therapist and nurse one-half day weekly. **(R)**

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary Special Education Certification (Certificate No. 1)

valid grades preschool to 6: bachelor's degree including professional education (15) which includes student teaching or one year experience, major field (30), specialization (6).

Eligibility for Senior High School Special Education (Certificate No. 3)

master's degree professional education (15), major field (24), specialization (6).

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

FLORIDA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

FLORIDA

RIGHT TO AN EDUCATION

Constitution: "The legislature shall provide for a uniform system of public free schools and shall provide for the liberal maintenance of the same." **(Art. XII, Sec. 1, Fla. Const.) (L)**

Compulsory Attendance Law: All children between ages seven and 16 are required to attend school during the entire term. Consistent with regulations adopted by the state board, exceptional children, who have reached the age of three on or before January 1 of the school year, are eligible for admission to public school programs and related services under rules and regulations of the school board, provided however that exceptional children who are deaf, blind, severely physically handicapped or trainable mentally retarded below age five (5) may be eligible for a home instruction program, or if enrolled in other preschool or day care programs, may be eligible for supplemental instruction. **(L)**

Children, who are within the compulsory attendance limits and who have certificates of exemption issued by a county superintendent, are exempt from attending school for the school year specified in the exemption. Children whose physical, mental, or emotional condition prevents their successful participation in regular education or programs for exceptional children may be exempted. Before issuing a certificate of exemption, the county superintendent requires a statement from the county health officer, if he is a licensed practicing physician in other counties, or from a qualified psychological examiner designated by the county. This statement must certify that the child is physically or mentally incapacitated for school attendance. If appropriate programs are unavailable within the school system, arrangements shall be made with adjoining counties, other appropriate agencies, residential schools, or approved nonpublic schools to provide such programs and services. All children exempted from education will be immediately reported to the state superintendent. **(Sec. 232.06 Fla. Stats.) (L)**

Children from six years of age to ten years of age, inclusive, unless deaf, blind, or seriously crippled, who, because of distance and lack of public transportation would be compelled to walk more than three miles by the nearest traveled route to the school or to the nearest publicly maintained school bus route to attend a public school, and children eleven years of age or older, unless deaf, blind, or seriously crippled, who because of distance and lack of public transportation, would be compelled to walk more than four miles by the nearest traveled route to the nearest school or the nearest publicly maintained school bus route to attend a public school. **(L)**

Upon the recommendation of a judge of the juvenile court and the agreement of the superintendent any child within the compulsory attendance age limit may be granted a certificate of exemption. **(L)**

Responsibilities: All school boards shall provide an appropriate program of special instruction, facilities, and related services for exceptional children for 13 consecutive years. This program shall be implemented in annual increments so that by 1973 all exceptional children will be served. **(Sec. 228, 13 Fla. Stats.) (L)**

In interpreting the Florida Statutes regarding the education of exceptional children, the Attorney General decided that it was not mandatory for the County Boards of Education to provide such education, but rather, that it was their duty to do so only insofar as "practicable," i.e. if there were extra money and if other programs would not suffer, then classes for the handicapped could be established. **(Op. Att'y. Gen., October 21, 1966)**

In *Florida Association for Retarded Children v. State Board of Education*, the plaintiffs are the Florida A.R.C., the Dade County A.R.C., and 12 school-age handicapped children representing the class of persons similarly situated. The defendants are the governor and the state board of education and division heads therein, the secretary of the Department of Health and Rehabilitative Services, the Director of the Florida Division of Retardation, and the Dade County and Broward County Boards of Public Instruction. Attorneys allege that plaintiffs were excluded from a public education without hearings, and defendants created classification which were arbitrary and irrational and deprived plaintiffs of their right to an education. Plaintiffs seek a halt to alleged exclusion practices, establishment of due process procedures, and require defendants to provide clients of the Department of Health and Rehabilitative Services with an education. This case was filed February 5, 1973, and the suit and memorandums in response are still pending. On July 1, 1973, new Florida statutes were passed allowing for hearing procedures. On September 26, the federal court abstained pending determination since original remedies sought are now available under state law.

In *Wilcox v. Carter* the plaintiff is a 10-year old mentally retarded boy who represents all exceptional children who have been denied special placement in the Duval County Public Schools. The defendants are the Duval County School Board, the Florida School Board, the superintendent of schools, and the director of the Exceptional Child Department. It is alleged that plaintiff was denied educational placement since September, 1969, because he was not toilet trained. It is also alleged that this exclusion violated due process and equal protection rights. The following is sought: placement for plaintiff in an appropriate program within 30 days; right to an education for all exceptional children in the county; adequate hearings before a master; and a plan for hearing procedures before placement. The case was filed January 7, 1973, and defendants granted motion for abstention January 31, 1973. (lawsuit)

POPULATION

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Definitions: "The term 'exceptional children' as used in the Florida school code means any child or youth who has been certified by a specialist qualified under regulations of the state board of education to examine exceptional children, as one who is unsuited for enrollment in a regular class of the public schools or is unable to be adequately educated in the public schools without the provision of special classes, instruction, facilities, or related services, or a combination thereof. The term 'exceptional children' may also include the gifted."

"The term 'exceptional children' includes the following: the educable mentally retarded, the trainable mentally retarded, the speech impaired, the deaf and hard of hearing, the blind and partially sighted, the crippled or other health impaired, the emotionally disturbed and the socially maladjusted and those with specific learning disabilities and may include the gifted." (Sec. 228.041 Fla. Stats.) (L)

Educable mentally retarded (intellectually disabled) is "one who because of retarded intellectual development as determined by an individual psychological evaluation to be incapable of being educated profitable and efficiently through ordinary classroom instruction but who may benefit from a special education program designed to make his economically useful and socially adjusted. The mental development of an educable mentally retarded child is approximately 1/2 to 3/4 that of a child with average intelligence".

Trainable mentally retarded (severely intellectually disabled) is " one who because of retarded intellectual development as determined by individual psychological evaluation to be incapable of being educated profitably and efficiently through ordinary classroom instruction or special education instruction for the educable mentally retarded but who may benefit from training in a group setting designed to further his social adjustment and economic usefulness in his home or in a sheltered environment. The mental development of the trainable mentally retarded child is approximately 1/4 to 1/2 that of a child with average intelligence."

Emotionally disturbed is a child "who exhibits a behavior disorder, such as withdrawal, distractability, hyperactivity, or hypersensitivity as determined by a psychological or psychiatric evaluation, to such an extent that he needs a special instructional program for all or part of the school day."

Physically handicapped child is "one who has severe problems in oral or written communication, vision, hearing, motor coordination or other health impairment."

Pregnant students may be provided a special education program for a maximum of one (1) school year.

Gifted child "one who requires a special educational program because of extraordinary learning ability or outstanding talent in the creative arts." (R)

Age of Eligibility:

Children may begin receiving special education services at age 3, except for deaf, blind, severely physically handicapped or trainable mentally retarded children, who may receive home or supplemental instruction at any age. There is no maximum age.

When asked what the word "educable" meant, the Attorney General quoted the definition of an "educable child" as found in the Florida State Board of Education Regulations: "Educable child shall mean a child capable of learning to a degree which exceeds mere repetition and shall include those who can be expected to benefit from special educational facilities and methods designed to make them socially adjusted and economically useful and shall exclude those unable to profit by or adjust to the offerings of such an educational program." (Section 130-6.31) (Op. Att'y. Gen. October 21, 1966)

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: The crippled children's commission, the state board of health, and the state board of welfare will direct their field workers to review case records on or before March 31 of each year and to report to each county superintendent the names and other pertinent information of all of the county's exceptional children, whose conditions require special education and services, in their opinion. (Sec. 232.13 Fla. Stats.) (L)

In the second week of each school year, the principals of the county schools will send to the county superintendent a list of all deaf and all blind children in the county. This list is forwarded to the state superintendent, who will then present it to the president of the Florida School for the Deaf and the Blind.

Listings of all children with serious physical disabilities preventing their attendance in public school or which greatly impede their progress in school will be prepared at the time by school principals and sent to the county superintendents and state superintendents. In turn, they transmit the lists to the crippled children's commission or any other agency providing services for handicapped children. (L)

In providing for the education of exceptional students the superintendent, principals, and teachers shall utilize the regular school facilities and adapt them to the needs of exceptional students whenever this is possible. No student shall be segregated and taught apart from normal students until a careful study of the student's case has been made and evidence obtained which indicated that segregation would be for the student's benefit or is necessary because of difficulties involved in teaching the student in a regular class. (L)

The principal of the school in which the student is taught shall keep a written record of the case history of each exceptional student showing the reason for the student's withdrawal from the regular class in the public school and his enrollment in or withdrawal from a special class for exceptional students and this record shall be available for inspection by school officials at any time. (L)

No student shall be given special instruction or services until he is properly classified as an exceptional student. The parent or guardian of an exceptional student placed or denied placement in a program of special education shall be notified promptly of such placement or denial. Such notice shall contain a statement informing the parent or guardian that he is entitled to a review of the determination and of the procedures for obtaining such review. (L)

Assessment and Placement: Procedures for evaluating and placing exceptional children are set forth in the plan for the exceptional child program submitted by the district and approved by the director of the division of elementary and secondary education. (R)

It is the responsibility of the school board to provide for the medical, psychological, social, and education programs for children who are eligible as defined in these regulations and on the criteria outlined in the approved district plan. The administrator may be assisted in those reviews by a placement or staffing committee. (R)

The director of elementary and secondary education will approve district assessment and placement plans. Local school boards must by law provide diagnostic specialists. The special education director will, with the help of a committee, decide on appropriate placement. (R)

A record of the reasons for placement of the child in the program as well as reasons for withdrawal must be kept on file in the principal's office where the child is enrolled and must be available for review. (R)

In providing for the education of exceptional students the superintendent, principals, and teachers shall utilize the regular school facilities and adapt them to the needs of exceptional students whenever this is possible. No student shall be segregated and taught apart from normal students until a careful study of the student's case has been made and evidence obtained which indicated that segregation would be for the student's benefit or is necessary because of difficulties involved in teaching the student in a regular class. (L)

The principal of the school in which the student is taught shall keep a written record of the case history of each exceptional student showing the reason for the student's withdrawal from the regular class in the public school and his enrollment in or withdrawal from a special class for exceptional students and this record shall be available for inspection by school officials at any time. (L)

No student shall be given special instruction or services until he is properly classified as an exceptional student. The parent or guardian of an exceptional student placed or denied placement in a program of special education shall be notified promptly of such placement or denial. Such notice shall contain a statement informing the parent or guardian that he is entitled to a review of the determination and of the procedures for obtaining such review. (L)

Those children and youth whose educational achievement is being adversely affected by a communication disorder shall receive priority for speech and language therapy. Appropriate programming for these children and youth is based on diagnostic evaluations which shall include: appraisal of receptive and expressive language and speech abilities, educational achievement, and physiological involvements. A comprehensive program for the communicatively disordered should include three major components:

1. Prevention of speech and language disorders - Education of parent as to speech and language development, education of school personnel as to speech and language development; knowledge of an assistance in the reduction of noise hazards in the school community, and inclusion of the knowledge of speech and language development in high school curriculum offerings.
2. Clinical assistance - Direct intervention by the clinician with individual or groups of children with communicative disorders. These children are selected from the school population by screening all or a selected percentage of the students and through teacher, parent, or principal referrals, determining the communicative profiles of the school and establishing priorities for in-depth diagnostic evaluations, case selections and other services.
3. Resource assistance - Those children whose speech and language programming can best be handled within the [illegible] with the indirect assistance of the speech clinician. This [illegible] includes:
   [illegible] classroom teachers by speech clinicians;
   [illegible] curriculum coordinators by speech clinicians
   [illegible] in language development skills.

Appropriate programming for individual children by the clinician may include but is not restricted to the following: parent interventions only; assistance to classroom teachers; daily therapy sessions with severely involved speech and language impaired; periodic therapy sessions; individual or group sessions; and placement in full-time class for language impaired children taught by a language specialist. At the high school level, this may include grouping of speech and language impaired students in a credit or non-credit class taught by a speech clinician.

Students in special education classes may qualify for and benefit from speech and language therapy. (R)

The program for the hard of hearing includes the hearing clinician who assists children who are enrolled in a regular classroom or class for the hearing impaired, and who need supportive assistance in spoken and written language construction, vocabulary usage, and emphasis on maintaining and improving acquired auditory skills; speech insurance. The following type programs are:

1. Daily Individual Instruction (Regular Education Enrollment). Children are those who can profit from instruction with hearing children in all academic areas, but who need daily supportive work in language and compensatory skills from an auditory specialist. These children need approximately ½ to ¾ hour of daily individualized instruction from the hearing clinician. Children in this service have moderate, moderately severe, or severe hearing losses and good communication skills.
2. Weekly Individual Instruction (Regular Education Enrollment). Children are those who can profit from instruction with hearing children in all academic areas, but who need approximately 1 to 1½ hours per week of supportive service from a hearing clinician.
3. Itinerant Speech Therapy (Regular Education Enrollment). Children are those who achieve well in regular class with the remedial assistance available to that school and the service of the speech and hearing clinicians assigned to the school.

Because the educational programming is different for the deaf child in comparison with the educational programming for the hard of hearing, determination of whether a child is deaf or is hard of hearing is an important diagnostic task involving recent educational appraisals and medical, audiological and psychological assessments. (R)

Early identification is needed for maximum effective prevention and treatment of specific learning disabilities. Through an intensive and highly individualized program most children with a specific learning disability should be able to return to the regular class.

The core of the program for specific learning disabilities is the precise match between the cognitive style of the learner and the cognitive demands of the instructional task. The teacher of children with specific learning needs should be prepared to teach in at least seven areas of instruction: sensory-motor area; visual processing, both perceptual and conceptual; language or psycholinguistic development; auditory processing, both perceptual and conceptual; academic areas; social behaviors; and emotional development.

The amount and degree of intervention should match the amount and degree of identified learning disability, i.e. comprehensive planning should include a variety of instructional programming to fit identified needs.

The programs of instruction and related services for exceptional children in a district school system may be organized and operated in one or more, or a combination, of the following patterns:

1. Full-time special class. A class of exceptional children enrolled for specialized instruction with a specially qualified teacher or specially qualified teachers for a major portion of the school day.
2. Part-time class. Instruction provided by a qualified teacher for exceptional children who are enrolled in a regular class of the public schools and spend half a day or less with the special education teacher. A minimum of 10 pupils at any grade level and a maximum of 24 pupils at the pre-school kindergarten and elementary grade levels and a maximum of 30 pupils at all grade levels above grade six shall be served by one teacher in this manner unless exceptions are permitted as described in section 6A-6.35 of the state board of education regulations.
3. Itinerant instruction. Instruction provided by a special teacher in two or more schools per week to children who are enrolled in regular or special classes and spend less than half a day with the itinerant instructor. (R)

Programs for exceptional children should be primarily instructional in nature, or closely related to instruction, as distinguished from services which are primarily medical, or custodial, or social welfare services. Units for exceptional children shall not be used to provide general psychological and social work services which normally are provided by and available from agencies or other educational personnel. (L)

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ADMINISTRATIVE RESPONSIBILITY

The state board of education is authorized to adopt the rules and regulations necessary to secure adequate school services for the handicapped individuals. (Sec. 22-9.1 Fla. Stats.) (L)

The state board of education may assist local school divisions in employing and paying teachers to conduct special classes for the handicapped, including the orthopedically handicapped, speech defective, homebound, those children and adults confined in hospitals, and children who require special education, whether by reason of mental retardation, cerebral palsy, physical deficiency or otherwise, but not including visually impaired children who are provided for in Section 22-9 (Sec. 22-9.2 Fla. Stats.) (L)

The state department of education is responsible for programs in the state school for the deaf and blind. (L)

Members of the staff of the education for exceptional children section of the bureau of curriculum and instruction, division of elementary and secondary education, provide consultative services for general program development of special education programs as well as specialized services in the various areas of exceptionality. Assistance is offered to local school systems by:

1. offering consultative services on invitation from a local school system with the approval of the superintendent in planning and implementing of programs for exceptional children;
2. reviewing and recommending allocation of special instruction units for exceptional child programs;
3. collecting, interpreting, and disseminating information relative to the various phases of exceptional child education for decision making and recommendations for changes in policies, regulations and statutes;
4. assisting a local school system upon request, in planning and establishing experimental or pilot programs for the improvement of instruction for exceptional children;
5. serving as a liaison with other divisions, bureaus, and sections of the department of education;
6. preparing and distributing bulletins, manuals, guides, curriculum materials, bibliographies, newsletters and research information;
7. serving as a liaison and participating in matters relating to surveys, evaluations, and joint projects involving exceptional child education;
8. serving as a liaison with the special education teacher training personnel in institutions of higher learning in matters of teacher certification and the improvement of educational practices for children in all areas of exceptionalities;
9. planning and conducting state conferences, institutes, and workshops to develop understanding and to assist in the training of local leadership personnel who are engaged in special education programs;
10. making available the information needed by citizens, organizations, legislators, and public and private agencies so that they can participate intelligently in planning with school administrators programs for exceptional children within the framework of the state's philosophy;
11. reviewing projects requesting federal and state funds for exceptional child education programs; and
12. participating in professional meetings and conferences on the national, state, and county levels representing all areas of exceptional child education. (R)

In a district school system administrative responsibilities for the exceptional child programs are assigned to one member of the district instructional staff so that the varied instructional programs, supportive services, and services of related agencies may be effectively coordinated.

When a county reaches a school population of 5,000 and has programs for four or more areas of exceptional child education, a full-time qualified director should be employed.

The effectiveness of the exceptional child education program within a district results from the extent of the coordination of the various areas of exceptional child education, the integration of special education into the total

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program of the school system, and the optimum use of community, state, and federal resources. The administrator has the responsibility for the exceptional child education program in the local school district and should be given due authority to implement the program. The exceptional child education administrator's responsibilities may include the following:

1. initiating new programs and continuously planning for a comprehensive and sequential program for exceptional children and youth;
2. assisting in the selection and hiring of exceptional child education personnel;
3. defining and promoting adequate procedures for the referral and identification of exceptional children. In reviewing the recommendations of the evaluation specialists and determining the appropriate educational placement for students who are eligible for exceptional child education programs, the administrator should be assisted by a placement or staffing committee. The administrator must further ascertain that all due cautions and procedures have been afforded the student and his parents or legal guardians to guarantee that they are given the opportunity for all due process considerations, avenues of appeal and equal protection under the law;
4. promoting and maintaining adequate procedures for pupil and teacher accounting, records, and completion of state reports;
5. providing leadership in curriculum development;
6. conducting staff conferences and orientation seminars;
7. assisting in planning and implementing pre-school, post-school and in-service training programs;
8. maintaining good public and community relations;
9. procuring and distributing specialized materials and equipment; and
10. providing leadership in program evaluation and follow-up procedures. (L)

PLANNING

The superintendent is responsible for recommending the establishment, organization, and operation of schools, classes, and services needed for providing adequate educational opportunities for exceptional children in the district, including the recommending of plans for the provision of special education classes, instruction, facilities, equipment, and related services. (L)

Local school boards are responsible for adopting and providing plans for the establishment, organization, and operation of the schools of the districts. This includes an appropriate program of special facilities and services, according to the rules and regulations of the state board of education such as: (1) necessary diagnostic and evaluation services for exceptional children; (2) special instruction, classes, and services, within districts' school systems, and (3) contractual arrangements by district boards with approved private or non-public schools or community facilities. (L)

FINANCE

For the 1973–74 fiscal year the maximum amount of Florida education finance programs funds for current operations for all districts for special programs for exceptional students shall not exceed $75,200,000.

No matriculation or tuition fees may be charged to pupils whose parents are residents of the state. Public education in grades one through 12, including exceptional child education, is made available at public expense for all school age children. The funds for the support and maintenance of these schools is derived from state, district, federal, or other lawful sources, or combination of sources. (Sec. 228.16 Fla. Stats.) (L)

Funds available under Section 282.93 (11) (a)3., Florida Statutes, shall be used exclusively to establish new programs or activities for exceptional children. (L)

All funds received under this act may be combined to purchase large items of equipment or to develop program areas where the need is greatest. (L)

Expenditures for basic classroom equipment, such as students and teachers desks and chairs, shall be limited to the number of new classes established over the previous year as indicated by the allocation of exceptional child units to the district. (L)

Expenditures for minor remodeling may be approved to allow for the installation of equipment required for a new activity. Funds will not be allowed to refurnish existing classrooms or other facilities.

Cost factors based on desired relative cost differences between the following programs are hereby established; however, the application of cost factors in special programs for exceptional students identified by the roman numeral one (I) shall be limited to a maximum of seven twenty-fifths (7/25) of a student membership in a given program during a week. The criteria for qualification for the special programs shall be determined by regulations of the state board. Cost factors for special programs for exceptional students under the minimum age for enrollment in kindergarten will be used to fund programs approved by the department as provided by law.

	Cost Factor
Basic Programs	
Kindergarten and grades 1, 2 and 3	1.20
Grades 4, 5, 6, 7, 8, 9 and 10	1.00
Grades 11 and 12	1.10
Special Programs for Exceptional Students	
Speech therapy I	10.00
Deaf	4.00
Specific learning disability I	7.50
Specific learning disability	2.30 (L)

The cost factor is multiplied by a full time equivalency factor based on student membership and by a base student cost determined annually by the legislature. (Finance Ed. Act of 1973) (L)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Schools operate on a county system, and two or more counties may contract to provide special services. **(L)**

SERVICES

"The term 'special education services' means such related services in addition to instruction of the exceptional child as transportation, diagnostic and evaluation services, social services, physical and occupational therapy, job placement, orientation, and mobility training, braillists, typists and readers for the blind, specified materials and equipment, and other such services as approved by regulations of the board of education." **(Sec. 228.041 Fla. Stats.)** (L)

No teacher may teach exceptional children unless he has been properly certified under the regulations of the state board. The state board is directed to develop the plans for the proper education of such teachers and to prescribe the standards and regulations necessary for certifying such teachers and supervisors. **(Sec. 231.81 Fla. Stats.)** (L)

Class Size:

	NUMBER OF PUPILS Minimum	NUMBER OF PUPILS Maximum
AURALLY HANDICAPPED		
Special Class Primary Age	5	8
Special Class Intermediate Age	5	10
Special Class Jr. High Age	8	12
Special Class Sr. High Age	8	12
DEAF		
Special Class Primary Age	5	8
Special Class Intermediate Age	5	10
Special Class Jr. High School Age	8	12
Special Class Sr. High School Age	8	12
SPEECH HANDICAPPED		
Itinerant Program (Weekly Caseload)	50	100
Itinerant Speech Therapy Program-Deaf or Hard of Hearing (Weekly Caseload)	10	20
LEARNING DISABLED		
Special Class	5	10
Part-time Class (Weekly Caseload)	12	20
EDUCABLE MENTALLY HANDICAPPED		
Primary Age Special Class	6	12
Intermediate Age Special Class	8	15
Jr. High Age Special Class	10	18
Sr. High Age Special Class	12	18
TRAINABLE MENTALLY HANDICAPPED		
Special Class-Primary Age	5	10
Special Class- Intermediate Age	6	10
Special Class- Jr. High School Age	8	12
Special Class- Sr. High School Age	10	15
PHYSICALLY HANDICAPPED		
Motor 1: Classroom Instruction for children or youths with motor disabilities or severe physical health problems: Primary Age	6	10
Intermediate	6	12
Jr. High Age	8	15
Sr. High Age	10	15
Motor 2: Homebound or Hospitalized children (Weekly Caseload)	[illegible]	10
Motor 3: Physical or Occupational Therapy (Weekly Caseload)	[illegible]	35

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EMOTIONALLY DISTURBED		
Special Class	5	15
LEARNING DISABLED		
Special Class	5	10
Part-time Class (Weekly Caseload)	12	20
VISUALLY HANDICAPPED		
Vision 1- Itinerant Programs (Caseload)	–	–
Vision 2- Special Class (Legally Blind and Partially Sighted):		
Primary Age	5	8
Intermediate Age	7	10
Junior Age	[illegible]	12
Senior Age	10	[illegible]
OTHERS		
Classroom Instruction		
Primary & intermediate age	10	15
Jr. and Sr. High Age	10	17
Educational, psychological and sociological evaluation of exceptional children: (weekly caseload)	10	18

PRIVATE

Educable mentally retarded, trainable mentally retarded, speech impaired, deaf, hard of hearing, blind, partially sighted, crippled and other health impaired, emotionally disturbed, socially maladjusted and specific learning disabled, are eligible for private placement. (L)

Local boards have the ability to contract for services for exceptional children with approved private facilities. (L)

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Graduate Certificate – designated as Rank III, valid for five years, *shows certification in major listed on college transcript*, having met all the following requirements:

a. completed application on file
b. recipient holds a bachelor's degree earned from a standard institution
c. receipient has a major in a single certification field listed in Florida Requirements for Teacher Certification
d. recipient has completed one of the following

d. recipient has completed one of the following:

undergraduate teacher education program at an institution approved for teacher education by the Florida State Board of Education or the National Council for the Accrediation of Teacher Education

OR

professional preparation as specified in Florida Requirements for Teacher Certification

e. has met recency-of-credit requirements as described in Florida Requirements for Teacher Certification

A Graduate Certificate covering a certification subject or field OTHER than the major shown on the college transcript may be issued to an individual when requirements described in items a, b, d, and e for the Graduate Certificate above have been completed *and the specialization requirements for that field as specified* for the Rank III Certificate, Florida Requirements for Teacher Certification have been met.

FACILITIES

School plant planning and construction should take into consideration the facility needs of exceptional children, including classroom space, provisions for speech therapy, and specially designed facilities. **(R)**

Plans which base housing on a year-by-year availability of classrooms will not be viewed with favor. Classrooms should be permanent in nature and moved only as special education programs growth dictates. Portable classrooms may be used on a temporary basis during transitional periods. **(R)**

The minimum space requirements established by the division of elementary and secondary education for the identified programs shall be used. **(R)**

STATE PROFILE

GEORGIA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "There shall be a thorough system of common schools for the education of children, as nearly uniform as practicable, the expense of which shall be provided for by taxation, or otherwise . . ." **(Art. VIII, Sec 1, Ga. Const.) (L)**

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to the compulsory attendance requirements. Children determined to be physically or mentally incapable of doing school work or who have been excused from attendance by county or independent school boards in accordance with state board regulations are exempt from the requirement. Regulations must consider factors such as sickness, seasonal labor, and other emergencies. County and independent boards of education are the only agencies which can excuse children from the compulsory attendance requirement. **(Sec. 32-2106 Ga. School Laws) (L)**

Responsibilities: "School boards of any school system that maintain a recognized public school shall, subject to any limitations hereinafter specified, establish and maintain such special facilities and employ such professional workers as may be needed for one or more types of exceptional children defined by the state board of education who are residents of their school district and such children, residents of other school districts, as authorized by this act." **(Ch. 32-35, Ga. School Laws) (L)**

School is defined as the 12 grades of instruction by the public schools. **(Op. Att'y. Gen., July 16, 1965)**

There is no statutory limitation regarding the minimum and maximum age at which a pupil may enroll in public schools. The matter is left to the discretion of the local school board. The age limits of ages 6 to 9 years for school attendance in Ga. Code Ann. 32-937 is interpreted to mean that children between those ages shall be taught free. **(Op. Att'y. Gen., July 16, 1965)**

Ga. Code Ann. 32-620 authorizes local boards of education to operate kindergarten and nursery school programs, but does not make it mandatory. **(Op. Att'y. Gen., July 16, 1965)**

POPULATION

Definitions: "Exceptional children are those who have emotional, physical, communicative, and intellectual deviations to the degree that there is interference with school achievements or adjustments or prevention of full academic attainment, and who require modifications or alterations in their educational programs. This definition includes children who are mentally retarded, physically handicapped, speech handicapped, multiple handicapped, autistic, dyslexic, intellectually gifted, and any other areas of exceptionality which may be identified." **(Ch. 32-35, Ga. School Laws) (L)**

" 'Speech impaired children' are those children with oral communication disorders and whose speech differs so far from the speech of others (his peers) that it calls attention to itself, interferes with communication, or causes the child to become maladjusted."

"Children whose speech and oral language skills, although not disordered, are deviant and detrimental to the child's benefiting from classroom instruction, are also considered speech impaired." **(R)**

Hard of hearing children are those at least three years old "whose sense of hearing, after medical treatment is still defective but is functional with or without a hearing aid." **(R)**

Deaf children are those at least three years old "whose sense of hearing is nonfunctional; they must have their whole language structure taught by specially qualified persons."

Deafened children are those "who have developed speech and language normally but who, through disease or trauma, have lost their functional hearing." **(R)**

" 'Children with special learning disabilities' exhibit a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written languages. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic. They include conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, developmental aphasia, etc. They do not include learning problems which are due primarily to visual, hearing or motor handicaps, to mental retardation, emotional disturbance, or to environmental disadvantage." **(R)**

The educable mentally retarded child is defined as one who, because of limited intellectual functioning, has significant limitations in his educational development and is not able to achieve in a regular education program. Inability to achieve and adjust presents itself in the areas of maturation, learning, social and emotional adjustment, and vocational adjustment. The educable mentally retarded (EMR) will usually have an intellectual ability of approximately one-half to three-fourths that of the "average child" of comparable chronological age.

The trainable mentally retarded (TMR) will usually have an intellectual ability of approximately one-third to one-half that of the 'average' child of a comparable chronological age. Thus, these individuals will have intelligence quotients of 35 to 55, as determined on an individually administered intelligence test. These children may be expected to benefit from a program designed to further their socio-economic usefulness in their home and/or sheltered environment or residential setting. At maturity, the trainable mentally retarded will be functioning at approximately the second grade level.

An emotionally disturbed person is one who is unable to maintain a set adjustment to his everyday surroundings or to the forces within himself. The well-adjusted child is able to maintain a comfortable relationship between his inner self, others, and his environment. The problems of the disturbed child are often revealed in varying degrees of maladjustive reactions toward peers and authoritative figures, such as parents and teachers.

Homebound or hospitalized children are those children who have a medically diagnosed physical condition which is noncommunicable and restricts him to his home or a hospital for a period of time which will significantly interfere with his education-is eligible for the services of a hospital/home instructor.

Visually impaired children are those "children to be served included totally blind children and those with visual handicaps which may result from congenital defects, eye diseases, severe refractive errors, injuries to the eye, and poor eye coordination. They fall into the follwoing three basic categories:

Functionally blind-A child who will be unable to use print as his reading media is considered to be functionally blind. Instruction in braille and in the use of recorded materials will be essential to this child's education.

Legally blind- A 'legally' blind child is one whose visual acuity is 20/200 or less in the better eye after correction, or who has a limitation in the field of vision that subtends an angle of 20. He falls within the definition of blindness, although he may have some useful vision and may even read print.

Partially sighted- A partially sighted child is one whose visual acuity falls within the range of 20/70 to 20/200 in the better eye after correction."

An individual who is multi-handicapped has two or more physical problems severe enough to interfere with his receiving all or a part of his education in a regular classroom.

Age of Eligibility: Children are eligible for special education services between the ages of three and 18. **(L)**

Under the Early Childhood Development Act, three classes of children within the following age limits must receive services: "(a) the testing, diagnosis and treatment of physical or mental handicaps of children from one to three years of age, (b) educational programs for children 5 years of age, and (c) educational programs for children three to five years of age who have physical or mental handicaps, and, within the age limits, the State Board of Education may, if it desires, include other children who are in the category of "early childhood." **(Op. Att'y. Gen., April 25, 1972)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: School systems are responsible for securing a competent survey of the educational needs of exceptional children in their jurisdictions, and for devising an educational plan for these children. This survey, or census, can be done in several ways. For example:

1. The school system can prepare a questionnaire for distribution to principals and teachers and collect data on that basis.
2. An informal teacher survey can be taken in each school.
3. A social worker, psychologist, or visiting teacher may be assigned to interview and request information directly in the home.
4. Local agencies such as health and welfare departments, mental hygiene, and Vocational Rehabilitation offer valuable statistical records which should be studied.

Any census should include all ages of handicapped and gifted children; therefore, the entire community should be surveyed. This information can be used as the basis for immediate and long-range educational planning.

Screening: Prior to submitting a request for testing to the division for exceptional children, children will be screened by considering: (1) vacancies existing in the proposed special class; (2) availability of transportation to proposed special class; (3) information contained in the referral form; (4) appropriateness of a child for the class on the basis of his age, behavior, group test scores, school achievement, problem areas, and other information available; and (5) referral to appropriate school personnel or other agencies of those children needing medical care **(R)**

The director of the local school system:

1. Obtains copies of the referral form (IEC A-13) from the program for exceptional children to give to each school in the system which refers children for special education classes/programs.

2. Instructs classroom teachers in the purposes and proper procedures for completing the form. (The forms should be completed in detail, and additional sheets may be attached if necessary. Three copies are needed and carbons are acceptable.)
3. Receives from the principal three copies of the completed referral form on children whom the teachers wish to be considered for special class placement.
4. Arranges with the principal(s) for group intelligence testing if this has not been done. (Children must be tested in small groups of four or five to insure greater reliability of results). The results of the group test are then recorded in the appropriate space on the referral form. **(R)**

Assessment and Placement: Three categories of workers may evaluate children:

1. Certified school psychologists (DD-7), associate school psychologists (SP-6) or school psychometrists (BPM-5 or PM-5).
2. Licensed psychologists or other psychologists employed by a recognized public or private agency (i.e. child guidance clinic, mental health center, regional mental hospital, state department of education, colleges or universities).
3. Approved examiners on their salaried employment by a local school system (the approved examiner program expired on July 1, 1971. No new examiners will be approved under this procedure, however, a few such approved persons still have authority to evaluate children for special class placement). **(R)**

Most evaluations for special class placement will be done by certified school psychologists or psychometrists since their services are increasingly available to local school systems. Some psychological services will continue to be provided by licensed psychologists, agency and institutional psychologists, and by individuals in local school system staffs under the provision of the approved examiner program.

If the local school system has a certified school psychologist or psychometrist on its staff, this individual would be responsible for securing or providing necessary psychoeducational services for referred children. In most instances the local school system will have developed referral procedures and methods which will expedite effective school psychological services. All systems should adapt or use the Georgia Department of Education forms. There is no prescribed or required form. **(R)**

In the event locally based psychological services are not available the school system may request that the Georgia department of education provide psychological examiners to evaluate children referred for special class placement. The following steps are necessary:

1. Secure referral information on children from teachers through their principals.
2. Ascertain that group tests and other pertinent data are completed on referral forms for each child.
3. Determine the number and ages of children who can be placed in appropriate classes.
4. Request psychoeducational testing from the Georgia Department of Education.

The coordinator of special education should check the referral forms to select the most appropriate candidates for further psychoeducational study. Available transportation, the age of the child, the need for further study, or alternate actions such as referral to the local public health department or family and children services agency shall be considered. Referral to the counselor or visiting teacher may be appropriate.

Parental cooperation and help are necessary to the best educational development of the child. If psycho-educational study is indeed necessary, parental permission should always be secured. Individual visits to parents by school staff members are recommended if at all possible.

The school's coordinator of special education should arrange for a suitable work space for the examiner. The first requisite is freedom from interruption and distraction. The room should have a flat work table and at least three chairs.

The children should be available for the examiner at about one-hour intervals. Time should be scheduled for the examiner to meet with concerned parents and teachers if possible. In any event, the examiner should review the results of his work with the coordinator. The examiner should be furnished with copies of the referral forms on each child to be examined.

The examiner will administer appropriate individual tests to referred children and carry out a diagnostic interview. He should allow time to meet with parents and teachers when possible. Upon completion of his analysis and scoring of the child's protocol, three copies of his report should be sent to the referring school system.

The coordinator of special education should receive copies of the individual psychological reports. One copy is retained for a central office file and one is furnished to the advisory committee (subsequently to the child's teacher). If the psychological examiner is to be reimbursed through the Georgia Department of Education for contracted services, the coordinator should send one copy of the psychological report to the coordinator, school psychological services, Georgia department of education with a request for reimbursement.

Contracted psychological examiners should be paid for their services by the local school system as soon as their completed psychological reports are received.

Psychological reports must be confidential. They should be seen only by school professional staff who have a legitimate interest in the individual case, including the child's teacher. When not in actual use, they should be locked in an appropriate file case or cabinet. It is necessary to secure a release from the student's parent prior to sending psychological reports to other agencies or persons.

Placement decisions are the responsibility of the local professional advisory committee. The psychological report will, of course, comprise a major part of the information that the committee will utilize in making a decision, but other factors will also be considered, such as availability of transportation, age and social maturity of the child, the child's particular needs, anecodotal and other school records, and teacher and parental judgment and wishes. The decision on placement is not the responsibility of the psychological examiner, although he should give his opinion regarding educational programming and placement. **(R)**

The psychoeducational evaluation will contain, along with other data, an IQ and a mental age on each child evaluated.

A psychoeducational report, if used carefully and creatively, gives the teacher a basis for immediate planning and for projecting the progress of the individual. Most of the errors of usage of such reports seem to result from the assumption that psychoeducational reports are invariably inclusive, comprehensive and definitive. School psychologists and psychometrists try to avoid such implications. They know that the psychoeducational report is a carefully considered appraisal of human functioning and, as such, is subject to considerable restriction.

The minimum information given in a report includes some indication of the intellectual potential of the child, of his particular modes of behavior, of possible educational consequences of dynamics observed, and suggestions for further exploration or analysis. The psychoeducational report should be used by teachers as a valuable summary of one sphere of a child's functioning. This picture then is not complete without added information regarding the social and educational history of the child.

Professional educators recognize the inherent limitations of the psychoeducational report; however, lay persons usually do not. For this reason school personnel must serve as interpreters of such information to parents. It is not advisable to give these reports to parents or others who are unable to utilize the contents properly. **(R)**

Since the referred children have been prescreened, testing time will probably not average more than one hour to one and one-half hours.

If parents desire a conference, the psychologist is requested to talk with them briefly after examining the child. Counseling should be followed up by the local director, visiting teacher, counselor or school psychologist. The psychoeducational evaluator is expected to give parents three types of information:

1. Some idea of what the examination was composed of and its significance;
2. An interpretation of the child's mental age and, if retardation is present, what it means;
3. Some ideas as to the future development of the child. Placement or non-placement of a child should not be promised to parents since these decisions are the responsibility of the local school system and also depend on other factors, such as class enrollment, available transportation, and the nature of the child's handicaps.

The psychoeducational evaluation is the examiner's way of informing teachers and others concerning the functioning of the child. It should be as exhaustive as possible, containing all pertinent information the examiner obtained about the child. It also brings together information from various sources (referral form, parent interview, school records, etc.) and interprets its relationship to the child's functioning on the examination.

It is recognized that the examiner's limited time affects the extent and depth of the report. However, an intensive interview of 45 minutes to one and one-half hours should yield considerably more information than an IQ and a mental age.

The examiner should consider reporting such factors as:

1. The child's educational potential based on intelligence test results, history, achievement test results, and observed behavior.
2. The child's potential for an adequate social and emotional functioning level, including such items as ability to relate to others and potential ability to function effectively in a classroom setting.
3. The child's attention and persistence span, his ability to tolerate frustration and failure and such abilities as his capacity to judge the quality of his response.
4. The child's customary approach to tasks and the various mechanisms he employs to achieve a comfortable relationship between himself and others and structured tasks.
5. The assessment of any special strengths or liabilities in the sphere of intellectual functioning and, if possible, suggestions to the teacher for exploiting strengths or remediating disabilities.
6. Conditions that require further study, such as possible neurological impairment and general physical disabilities, sensory defects, or emotional disorders.

The following are suggested for inclusion in psychoeducational and psychometric reports:

1. Identifying Data — child, school, system, superintendent, grade, birthdate, chronological age, date of testing, tests used, examiner.
2. Referral — Give name and title of person completing the form. What are the factors revealed by the referral form that indicate a need for individual testing (such as discrepancy between achievement level and chronological age level or low group test scores)? The reason for referral is generally to assist the advisory committee in determining the best class placement for a child, not to see if a child's IQ is in the educable range.
3. Educational Information — Includes available information on any previous test, IQ and achievement test results, pertinent classroom and background behavior, school attendance, child's attitude toward school and school authorities, teacher comments, specific learning strengths and weaknesses, and other school-related information. This information should be stated briefly.
4. Background Information — Contained in the referral form attached to the psychoeducational report. If items of special interest are noted, they should be emphasized in the report.
5. General Observations — Includes comments on physical deviations such as speech, hearing, vision, or obvious motor disabilities. The child's significant behavior should be discussed during the testing situation, with comments on such things as attention, confidence, willingness, need for praise, verbalization, types of responses, speed of responses, perseveration, motor activity, reactions to authority, [illegible], frustration, etc., with substantiating descriptions (if such observations seem educationally pertinent).
6. Test Results and Interpretation — The child's chronological age should be reported, along with his mental age, regardless of test used, (IQ should be converted to mental age if necessary), and his IQ score or scores.

   A description of strengths and liabilities as evidenced in test patterns and responses to test items will be of value to the teacher in working with the child. Intratest scatter or variability, where significant patterns appear (i.e., performance scores unusually high in relation to verbal scores, or atypical patterns of success and failure from lower to higher subtest levels) should be discussed. If possible it should be suggested how this variability might affect the acquisition of new learning. If there is sufficient evidence from which to obtain strengths and weaknesses, this should be indicated. A statement concerning validity of testing and supporting comments should be given.

7. Summary — The summary should be a statement of the interrelationships of background and educational information, characteristic behavior, and meaningful test results which will affect the child's learning potential. Recommendations regarding modification of instruction and discipline according to the child's abilities and needs should be included. The child's probable potential and current expected level of academic achievement should be stated. Any suggestions for referral for medical or other examinations (eyes, ears, neurological, nutrition, etc.) should be given, and suggestions for re-evaluation due to questionable test validity, language difficulties, or emotional factors should be made. Placement in a special class is the responsibility of the local professional advisory committee. If information which might give a clearer picture of the child is not available, this should be indicated with reasons why this knowledge might be important. (R)

In evaluating the hearing impaired child, the teacher of the hearing impaired must not be required to participate in hearing screening of the school population. (R)

From an educational standpoint, special learning disabilities must be identified through psychological and educational evaluation. When indicated, ancillary diagnostic consultation shall be required. Reports for all examinations and consultations must be in case study for consideration at staff conference. (R)

When the speech problem is related to physical or neurological conditions, the recommendations of the physician are essential in selection of a child for speech therapy. (R)

The local professional advisory committee will discuss findings contained in psychoeducational reports and all other available information pertaining to each child (cumulative records, teacher evaluations and anecdotal record, physical examination reports, etc.). The local professional advisory committee shall, upon review of all available data, recommend to the local school superintendent placement for each child. These decisions should be recorded in the minutes of the meeting.

The educational classification and class placement of the deaf and hard of hearing children to be served shall depend primarily on the child's communication ability. (R)

Eligibility of children to be placed in these programs must be determined by case studies fully reviewed by the local professional advisory committee, as well as all professional staff who have evaluated the children. (R)

On the recommendation of the advisory committee, an eligible child may be placed in a special program at the discretion of the local director of the program for exceptional children with approval of the local superintendent.

A child shall not be continued in a special learning disabilities program for more than one year without a full review by the professional advisory committee utilizing current reports. (R)

ADMINISTRATIVE RESPONSIBILITY

The state board of education is responsible for the implementation of statewide programs in the public schools for the education of exceptional children and for any other educational programs deemed necessary; for the establishment of priorities, standards and criteria for the implementation and operation of such programs; for the appointment of an advisory council for exceptional children; for scholarship grants and recruitment; for non-local education for exceptional children and for transportation of exceptional children and itinerant teachers. (H.B. 453) (L)

The state board of education is responsible for the supervision of the state schools for the deaf and the blind. (L)

Local school system responsibilities are the development of a comprehensive plan to provide services for all exceptional children; the appointment of a director-coordinator of the local program for exceptional children; the employment of qualified teachers; the provision of space, materials and equipment and the completion of required forms.

Responsibilities of the local director-coordinator include administration of the program, recruitment, coordination of services, in-service activities, supervision, referrals and placement, curriculum development, evaluation and public relations. (H.B. 453) (L)

PLANNING

Each school system participating in the state program for the education of exceptional children shall establish a committee to assist in the administration of the local program. This committee shall be known as the local professional advisory committee. (R)

The purposes of the committee are:

1. To see that the state policies for the program for exceptional children are implemented.
2. To set up local policies in line with the standards required by the state department of education.
3. To review all information and screen children for special class placement.
4. To determine the best placement for those children not placed in a special unit.
5. To review information on any child in a special class at the teacher's request.
6. To discuss transportation problems, requests for materials and equipment, and any other problems concerning the class(es) or unit(s).
7. To review all information and make recommendations on any child who may be removed from a unit for exceptional children. (R)

Meetings should be scheduled on the basis of need. A spring meeting is important to discuss class placement for the coming year and to evaluate the present program. (R)

Possible regular members are: the local school superintendent or any professional person that he wishes to represent him, the visiting teacher, the curriculum director, the principal of the school where the class is to be housed, the teacher(s) of the exceptional child class(es), a professional staff member of the local health depart

In establishing programs under the Early Childhood Dvelopment Act, the State Board of Education must "adopt a state plan for a comprehensive early childhood development program." It must also "establish criteria and standards for approval of local school system programs of early childhood development." The State Board of Education must also advise local boards of education as to the availability of funds, the sources and how to apply and get the funds. (Op. Att'y Gen., April 25, 1973) ment, a professional staff member of the local welfare department, the psychological examiner who did the testing, if possible, the medical consultant or the classroom; the vocational rehabilitation counselor working with secondary cooperative programs. (R)

Possible "floating" members are: present and/or former teacher of a child under consideration for special class placement (if needed) and the principal of the school where the child under consideration is presently enrolled. (R)

The director/coordinator of the local program for exceptional children should serve as chairman. (R)

A secretary should be elected at the first meeting who will take accurate minutes, stating any action taken on placement or dismissal from program, giving specific reasons, and include pertinent information discussed, and keep a copy of the minutes on file for future reference. (R)

Local school systems shall establish guidelines for the operation of the public school program for speech impaired to meet the [illegible] and therapy needs of the school systems. Each system or group of systems employing speech therapists shall submit in writing a plan for local implementation of a comprehensive public school program for speech impaired to the program [illegible] for prior approval.

This plan shall include a list of members of the local planning committee including the committee members titles.

In an effort to make the program an integral part of the educational program, the planning committee shall be representative, including school personnel from special education, the speech therapists presently employed by the system, elementary classroom teachers, supervision and administration. The parent-teacher association or other similar groups should also be represented. A system that does not presently employ a therapist should obtain the consultative services of a qualified speech therapist to work with the committee.

A program planned to serve more than one school system should have committee representatives from each system. (R)

A rationale for the establishment of these services in the system requesting approval should be stated.

The guidelines would be developed to support the implementation of a program designed to meet the recognized needs of the children to be served in the program. It is imperative, therefore, that the rationale shall identify both the universal and specific needs which may justify the establishment of a public school program for speech impaired. (R)

A description of the population to be served, including number of children, socio-economic status of general school population, and number of schools and approximate enrollment of each must also be in the plan.

Not all children are in need of the type of special speech instruction; however, some systems will have a greater need than others. For appropriate planning, it is also important to know what percentage of the local school population needs to be served by speech therapy.

The need for special speech instruction is usually greater among certain socio-economic groups. This may determine the proposed type of programming or scheduling. (R)

The number of speech therapists the system plans to employ during the first and second years of the program and number and types of personnel needed to implement a comprehensive program for speech impaired in the system must be included.

The plan shall reflect some anticipation on the part of the local school system as to projected needs for staffing. These projected needs should assist administrators in the recruitment of qualified personnel. (R)

Job descriptions of speech therapists to be employed, including approximate caseload for therapy with individuals and small groups, approximate caseload for large groups (i.e., work in oral communication skills) including maximum and minimum size, number of schools to be served under A and B, number of schools to be served by each speech therapist, and description of the types of speech impairments to be served by each therapist, must be included.

A system shall utilize the skills of personnel employed in the program to their utmost effectiveness and capabilities in serving the speech impaired children in the system. Realistic group loads and caseloads for speech therapists should demonstrate the system's awareness of their capabilities. A description of the job tasks expected should facilitate the effective functioning of employees in the school program.

A description of facilities to be provided in each school, including location within the school building, general acceptability of room for therapy purposes, other uses made of the room, and any gross deviation from appropriate facilities which may interfere with the effective utilization of the room for therapy should be pointed out. (R)

Description of special materials and equipment to be provided each type personnel in the program for speech impaired, indicating which will be available at each school, must be stated.

Appropriate materials and equipment should be furnished in adequate quantity to enable the speech therapist to do an effective job. Many of these materials and pieces of equipment cannot be transported from school to school and should, therefore, be available in each school. (R)

The amount of funds to be allotted each therapist each year for purchase of materials and supplies should be stated.

Funds should be budgeted for the replacement of expendable materials and supplies and for the purchases of new materials and equipment. Understandably, new units will require more funds than renewal units. The system shall indicate the amount allotted for each type unit. (R)

Geographic distribution, availability of space and size of schools, number of personnel and needs of children create unique situations in each school system to participate in the planning of their program. The provision of adequate services to each child needing speech therapy, however, shall be the primary criteria used in planning and scheduling. (R)

Efficiency and effectiveness of personnel working in the program will be enhanced by a well-defined description of lines of authority and responsibilities. Such a description should outline staff relationships of speech consultants and speech therapists to classroom teachers, principals and other administrators. (R)

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A statement describing the efforts of the local school system to inform school personnel system wide of the goals and administration of the proposed plan must be included.

The public school program for speech impaired should be an integral part of the total instructional program. The program should provide an ancillary service to children who need this special help, to improve their chances of benefitting from the regular educational program. It is imperative, therefore, that all school personnel have a clear understanding of the purposes and goals of the program. **(R)**

A chief administrator, the local superintendent, must endorse the plan proposed by subordinates as one that is practical and feasible for the local school system. **(R)**

Continued approval of state-allotted units shall be contingent upon the local school system maintaining the standards established by the school system endorsed by the speech therapy advisory committee and approved by the program for exceptional children. The local guidelines should be given annual review by the local school system and the local professional advisory committee. Revisions must be approved in writing by the program for exceptional children. In addition, any system using special speech teachers must submit to the program for exceptional children an outline of their specific usage. **(R)**

Georgia's mandatory legislation (H.R. 453) requires provision of full services for all exceptional children by 1976. Each local school system has developed comprehensive program planning budgeting systems for accomplishing this goal. These plans give evidence of the intent of the school system to meet the needs of the more severely involved as well as those who are moderately handicapped. The state plan for deaf-blind children is continuously evaluated in terms of current needs. **(L)**

Phase II was directed to implementation of services outlined in Phase I. A smoothly functioning state program serves the state's deaf-blind children. For each child served the process includes:

1. Complete medical assessment, consisting of: pediatric examination, neurological examination, ophthalmological examination, audiological examination, and physiotherapy and other evaluations as needed.
2. Educational evaluation includes: psychological evaluation, visual assessment and stimulation of function, auditory assessment and training of function, motor assessment and development of motor skills, language assessment and training in receptive and expressive language, recommendation of primary learning modalities, and recommendation of placement or home training.
3. Placement in appropriate educational programs.
4. Follow-up services until child is appropriately placed. **(R)**

FINANCE

The state board is responsible for establishing a uniform basis for allotting additional personnel and funds for special education programs. These programs are considered part of the minimum foundation program for education. The costs are shared by state and local administrative units in the same manner and on the same basis as costs in regular education programs. **(Ch. 32-620 Ga. School Laws) (L)**

If itinerant personnel require travel they receive state reimbursement.

Transportation, approved by the local committee, is wholly reimbursed by the state when funds are appropriated **(Ch. 32-35, Ga. School Laws) (L)**

For regular special education programs, each administrative unit is reimbursed a percentage of its actual expenditures for those programs during the two years immediately preceding the convening of the Legislature. The rate of reimbursement ranges from 13% to [illegible] based upon the per pupil valuation of each unit. **(R)**

Whenever a unit establishes a new class for handicapped children, the unit will be reimbursed its percentage of the expenditures following the first year of operation. Thus, a unit avoids a long waiting period for state aid when a new program is adopted. **(R)**

Expenditures for the transportation of handicapped children are reported under the pupil transportation services on Form 45-GA and are reimbursed at a rate ranging from 13% to [illegible] depending upon the wealth of the community. **(R)**

The regulations relating to state subsidy apply to the following special education programs: emotionally handicapped, home instruction, special supplemental tutoring, hospital instruction, special equipment, visually impaired, trainable mentally retarded, educable mentally retarded, hearing impaired, speech and language disorders, and learning disabilities. **(R)**

The State Board of Education cannot legally under Georgia law fund independent city school systems for the transportation of handicapped children. County school systems are paid for the transportation of handicapped children from one county to another if special classes are not available in their home county. This is legal under Georgia Law. **(Op. Att'y. Gen., January 20, 1971)**

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ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The state board of education is responsible for implementing state-wide programs in the public schools for the education of exceptional children and other educational programs not ordinarily coming within public school curricula.

Priorities, criteria, and standards for implementing and operating state-wide programs will be established by the state board. Prior to state implementation of programs, local systems should initiate such programs locally.

Committees for exceptional children may plan with other districts to provide joint services. Children may be sent to other districts for special services. If children attend special classes in another district, transportation is provided.

The state board may establish and maintain special courses, classes and/or schools for "the correction of speech by oral methods of those who are deaf or who have defective hearing or speech, in cooperation with, or independently of, local units of administration, with the power and right to promulgate the rules, standards, and requirements for the said courses, classes and schools receiving state aid under the chapter.

The state board may send children who are deaf and blind and for whom there are no facilities within the state, to schools, institutions, or other places outside the state maintaining appropriate facilities. Room, board, tuition, transportation, and other necessary items may be provided.

State regulations suggest that cooperative programs should be established for all disabilities with an incidence of less than one percent. A detailed plan of operation must be submitted for approval by the division for exceptional children.

One school system in each cooperative program acts as the fiscal agent.

The state board of education may use state funds to pay for transporting handicapped children from one county school system to another. However, reimbursement may not be made to independent city school systems.

The State Board of Education could authorize participation in programs of an educational and instructional nature such as "headstart." **(Op. Att'y. Gen., July 16, 1965)**

The State Board of Education under the Early Childhood Development Act, if it wishes, may consult with other state and federal agencies in implementing the programs. **(Op. Att'y. Gen., April 25, 1972)**

SERVICES

" 'Special education facilities' shall include, but not be limited to, special classes, special housing, special instruction, special rental facilities, braillist and typist for physically handicapped children, transportation, maintenance, instructional materials, therapy, professional consultant services, psychological services, itinerant services, resource services, additional evaluation services and centers, special administrative services, salaries of all required special personnel, and other special education services required by the child because of his exceptionality, if such services are approved by the state board of education and the child is eligible therefore under this act and the regulations of the state board of education."

" 'Professional workers' means approved personnel, and shall include, but not be limited to, speech and/or hearing specialists, mobility instructors, special education interns, special education administrators or supervisors giving full time to special education, and teachers of any class or program defined in this act who meet the requirements of this act." **(Ch. 32-35 Ga. School Laws) (L)**

The program for exceptional children provides consultative services to public school systems interested in providing appropriate educational programs for children who deviate intellectually, physically, communicatively, or emotionally so markedly from what is considered to be normal growth and development that they cannot receive maximum benefit from participation in a regular school program. Because of their deviation, specially qualified teachers, supplementary materials and equipment, differentiated methods, and other services are needed. **(R)**

Children may be enrolled full-time or part time in a class taught by a learning disabilities teacher or a clinical teacher. The chronological age range of these children shall not exceed three years. A maximum enrollment of eight children shall constitute a full SLD unit. **(R)**

Children are enrolled full-time in a class taught by a certified teacher of the deaf. The chronological age range of these children shall not exceed five years and the range of instructional levels shall not exceed four year. **(R)**

The purpose of the pre-primary program is to lay the foundation for language and communication skills. A child may be enrolled at three years of age. **(R)**

The purpose of the elementary program is to provide graded instruction in the regular curriculum, accompanied by continued attention to improving communication and language skills. These students shall be provided opportunities to associate with their hearing peers during non-academic periods of the school programs (e.g., physical education, art, music, etc.) **(R)**

Providing comprehensive educational, psychological and medical evaluations, and planning for multi-handicapped children whose handicaps are a result of rubella or other conditions, is a service provided by the Georgia Center for the Multi-Handicapped. The ultimate objective of evaluating a child is to place him in an appropriate setting which meets his developmental or educational needs, or to define the need for such a program if one does not exist. The program is a cooperative effort of the Department of Special Education, DeKalb County School System, Elks Aidmore Hospital, and the Georgia State Department of Education.

Evaluation services are available statewide for children 12 years of age or younger. The child must have multiple handicapping conditions; one of these handicaps must be sensory in nature, that is, visual or auditory.

The only expense to the parents or agency having custody is transportation to and from the Center. The child may be an inpatient (reside in Aidmore Hospital) or outpatient (reside at home) for the duration of the evaluation.

An evaluation usually takes two to three weeks but may be longer depending upon the needs of the individual child.

The center is staffed with a program consultant and coordinator, special education teachers, teacher assistants, and a social worker. Each child is seen daily by the teaching staff in fully equipped diagnostic classrooms. In this setting educational assessment is accomplished through diagnostic teaching. Physical and occupational assessment and therapy are provided for children who indicate these needs.

Each child is routinely evaluated by specialists in the following areas: general medicine, ophthalmology, audiology, psychology, and neurology. Other specialists such as a speech and language pathologist or psychiatrist are available on a consultative basis. Staffings are held by the educational and consultative staff to discuss specific services needed and appropriate placement for the child. A comprehensive report is written with specific recommendations for placement and other services such as glasses, hearing aids, or medical services.

Upon consent of parents, a copy of the confidential evaluation report and recommendations is forwarded to any school, agency, or institution which may have an appropriate program for the child. Follow-up is provided for placement and continued long range planning. Re-evaluation or change of placement is considered when deemed necessary.

The speech therapist shall function as an itinerant teacher for children whose speech deviates so far from the speech of others that it calls attention to itself, interferes with communication, or causes its possessor to become maladjusted. Speech disabilities may result from developmental, functional, and/or organic causes. Although the major portion of scheduled time will involve children with speech problems, lip reading and auditory training may be provided for children with mild to moderate hearing impairments. When the speech problem is related to physical or neurological conditions, the recommendations of the physician are essential in selection of a child for speech therapy. The correction of grammatical errors and reading difficulties is not included in this definition. **(R)**

Transportation is not provided to the Georgia Academy for the Blind. **(R)**

Transportation, approved by the local committee, is wholly reimbursed by the state when funds are appropriated.

Special payments are made by the state to county school systems to provide transportation of pupils from one county to another in order to attend classes not available in the county of residence. However, such payments are not authorized to independent city school systems. **(R)**

CLASS SIZE

	NUMBER OF PUPILS Minimum	 Maximum
EDUCABLE MENTALLY HANDICAPPED		
Elementary (Ages 6-9)	12	14
Elementary (Ages 9-13)	14	16
Secondary – junior high school (Over age 13)	16	20
Secondary – senior high school (Over age 13)	20	20
SPEECH HANDICAPPED		
Speech Therapy Session	1	5
Speech Therapist (Caseload)	55	80
PHYSICALLY HANDICAPPED		
Average Caseload	8	8
EMOTIONALLY DISTURBED		
Special Class (Initial placement-Diagnostic Teaching)	–	6
Special Class (Primary – C.A. 7-10 or 11)	–	8
Special Class (Intermediate – C.A. 11-14)	–	10
Special Class (Secondary – C.A. 13-16)	–	14
Crisis Teacher	–	8
Homebound Instruction (Caseload)	8-12	12
MULTIPLY HANDICAPPED		
Special Class	8	12
VISUALLY HANDICAPPED		
Unit	6	12

Under the Early Childhood Development Act, three services are required. They are outlined in Population. Other services are allowed under that Act if the benefits would be considered as being given to those who could be said to be in their "early childhood." **(Op. Att'y. Gen., April 25, 1972)**

PRIVATE

If an exceptional child cannot be educated in a local school system, his parents may seek a program appropriate to his needs after receiving approval from the program for exceptional children in the state department. The school or agency, either inside or outside of the state and which educates the exceptional child, will be reimbursed for tuition fees, transportation, and books. Reimbursement cannot exceed the cost of educating an exceptional child of identical age with a similar handicap in the Georgia public schools. Included in this section are multiply handicapped children who because of the severity of their disability have a special appropriation. **(Ch. 32035 Ga. School Laws) (L)**

Mentally retarded, physically handicapped, speech handicapped, multiply handicapped, autistic, hearing impaired, visually impaired, and other exceptionalities which may be defined are eligible for private placement. **(R)**

If a child is unable to be educated in a local school system, his parents may seek an appropriate program after receiving state department approval. **(R)**

Placements both within and without the state may be approved. **(R)**

The State Board of Education may not expend money for the education of a handicapped child in an institution outside of the State of Georgia. **(Op. Att'y Gen. 1952-53, p. 66)**

Funds can be used by counties to pay private schools for the education of handicapped children. **(Op. Att'y. Gen., May 10, 1972)**

PERSONNEL

BEST COPY AVAILABLE

Rules under Title I of the Elementary and Secondary Education Act of 1965 neither authorize nor prohibit the use of funds to compensate superintendents for additional work done in administering the programs under Title I. It is therefore a matter of the discretion of the State Board of Education and the United States Office of Education. **(Op. Att'y. Gen., December 30, 1965)**

Teachers who are working in a Title I program and are paid out of Federal funds cannot be "retained on State payroll for payment of the State certificate salary to the local school system." **(Op. Att'y. Gen., May 6, 1966)**

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Credentials to accompany application – in-state graduates are certified on the basis of a statement from the preparing institution of satisfactory completion of an approved program bearing on the certificate requested. Out-of-state graduates are certified on the basis of regional and national accreditation of the preparing institution.

Special Education (speech correction, mentally retarded, deaf and hard of hearing, crippled children, emotionally disturbed, learning disabilities)

approved program and institutional recommendation (special subjects – grades 1-12)

Teachers – Elementary and Secondary

Certificate T-4 Provisional valid for three years, not renewable, bachelor's degree, all requirements for a teaching field for high school level.

Professional Four-Year, Certificate T-5

valid for seven years, renewable on two additional courses. Bachelor's degree: general education (40), professional education (18), student teaching or approved substitute teaching field as follows : Early childhood (K-3) Elementary (K-8), Grades (7-9), and grades (7-12).

professional education (18), student teaching or approved substitute teaching field as follows: Early child - (K-3), Elementary (K-8), Grades (7-9), and Grades (7-12).

FACILITIES

All instructional programs for children with special learning disabilities must be a part of a regular school where there are children enrolled in regular classes who are of comparable ages. (R)

The school system shall provide a classroom of suitable size, in a distraction-free area as required by the type of program or services to be established, with appropriate furniture, materials, supplies and equipment to meet the needs of the class or individual children to be served. (R)

The General Appropriations Act (Georgia Laws 1951, page 420) appropriates $55,150,000.00 to establish educational facilities for spastic children and children with cerebral palsy. The funds are only to be given to legal county boards of education. None of these funds can be used to operate the State Department of Education. $795,000.00 is to be used to build an institution for the proper medical treatment and educational training of the above mentioned handicapped children. **(Op. Att'y. Gen., April 18, 1951)**

STATE PROFILE

HAWAII

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The state shall provide for the establishment, support and control of a statewide system of public schools, free from sectarian control, a state university, public libraries, and such other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no segregation in public educational institutions because of race, religion, or ancestry, nor shall public funds be appropriated for the support or benefit of any sectarian or private instructional institution." **(Art. II Sec. 1, Haw. Const.) (L)**

Compulsory Attendance Law: Unless excluded from school or exempted from attendance, all children between ages six and 18 must attend a public or private school for and during each school year. Any parent, guardian, or person having responsibility for or care of a child whose attendance in school is obligated shall send the child to some such school. Attendance will not be compulsory if a child is physically and/or mentally unable to attend school (deafness and blindness excepted). A certificate of duly licensed physician is sufficient evidence of this fact. **(HRS 298-9) (L)**

"Every parent or guardian having control over any partially or totally blind or deaf person, from six to 18 years of age who, by reason of total or partial blindness or deafness, is unable to obtain an education in the public or private schools, shall send the child to the state school for deaf and blind for a period corresponding to the regular school year. The superintendent of education or a circuit court judge can excuse such attendance if, in his opinion, the facts warrant such action. This does not apply when skilled private instruction is given to such persons for the same length of time each year. **(HRS 298-10) (L)**

"If for any reason a child becomes a detriment to the morals or discipline of any school, the child may be precluded from attending school by the principal with the approval of the district superintendent. The department shall seek the active participation of other public and private agencies in providing help to such children before and after they have left school. An appeal may be taken on behalf of the child to the superintendent of education within ten days of such action. ..." **(HRS 298-11) (L)**

Unless excluded from school or excepted from attendance, all children who will have arrived at the age of at least six years and who will not have arrived at the age of eighteen years, on or before December 31 of any school year, shall attend either a public or private school for and during such school year, and any parent, guardian, and other person having the responsibility for or care of a child whose attendence at school is obligatory shall send the child to some such school. Such attendance shall not be compulsory in the following cases:

1. Where the child is physically or mentally unable to attend school (deafness and blindness excepted) of which fact the certificate of a duly licensed physician shall be sufficient evidence.
2. Where a competent person is employed as a tutor in the family wherein the child resides and proper instruction is thereby imparted as approved by the superintendent.
3. Where any child who has reached the fifteenth anniversary of birth is suitably employed and has been excused from school attendance by the school department or its authorized agents, the family court or the district judge.
4. Where, upon investigation by the family court, when feasible, or by the district judge, it has been shown that for any other reason the child may properly remain away from school, or
5. Where a child graduated from a high school or vocational school. **(HRS 298-9) (L)**

Policy. "It is hereby declared to be a vital concern to the state that all exceptional children residing in the state be provided with instruction, special facilities, and special services for education, therapy, and training to enable them to live normal, competitive lives." **(HRS 301-22) (L)**

Responsibilities: If one or more exceptional children are found in any one district superintendent's area, the superintendent of education shall provide instruction, special facilities, and special services according to the specifications of this law in a manner most expedient and economical. **(HRS 301-24) (L)**

In *Kekahuna v. Burns*, the plaintiffs include two emotionally disturbed children, two mentally retarded children, one trainable mentally retarded child, one learning disabled child, and the Hawaii Association for Retarded Children. These children also represent the class of children denied appropriate education. The defendants are the state of Hawaii, its governor, and the state board of education. Plaintiffs allege that they have been denied right to education by total exclusion, by placement in inadequately funded private programs, or placement in inadequate public programs for disciplinary reasons. They are also denied due process and equal protection. It is sought that defendants be required to provide plaintiffs with appropriate education within 75 days, develop hearing and review procedures, or appropriate plan for special education. In general it is sought that due process and equal protection be provided to all of Hawaii's children. The case, filed April 12, 1973, is pending. (lawsuit)

POPULATION

Definitions: "'Exceptional children' includes: (1) Children under 20 years of age who deviate from the so-called normal person in physical, mental, social, or emotional characteristics or abilities to such an extent that specialized training, techniques, and equipment are required to enable these persons to attain the maximum of their abilities or capacities; (2) Children under 20 years of age who by reason of physical defects cannot attend the regular public school classes with normal children; and (3) Children under 20 years of age who are certified by a licensed physician eligible for membership in the state medical society to be emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods." **(HRS 301-21) (L)**

According to the Hawaii Eye, Ear, Nose and Throat Society, "a loss greater than 30 decibels in two or more frequencies in one or both ears in the following frequencies: 500, 1000, 2,000, 4,000, and 6,000 cps (ISO 1964) constitutes a medically significant hearing loss." **(R)**

Ordinarily, a child with a severe hearing loss in one ear is not considered handicapped if his other ear is within the normal range. It is important, however, that such a child have preferential seating so that the better ear is usually directed to the classroom teacher. He should be followed closely by the otologist, since the good ear should be watched carefully. **(R)**

"Any child whose hearing level in the better ear averages 35 db (ISO 1964) or 25 db (ASA 1951) or more in the speech range (500 – 2,000 cps) is considered educationally handicapped." **(R)**

"Articulatory disorders are characterized by substitutions, omissions, distortions or additions of sounds." **(R)**

"The kindergarten child with poor gross muscular coordination, hyperactive behavior, difficulty in following direction, and/or articulation difficulties is frequently also the child with a language disorder." **(R)**

"Voice disorders are characterized by deviations in pitch, quality or intensity. The pitch is usually higher than that of others of the same age or sex. The voice quality may be hoarse, breathy, hyper- or hyponasal. As voice problems may be organically based or associated with emotional problems, medical diagnosis and recommendations must precede therapy." **(R)**

Eligible Ages: Except under the Early Admission Program, any child must be at least five years old before December 31 of the school year, or (for schools convening after the regular school schedule, 25 days following the school's convening) for admission to kindergarten and six years old for admission to the first grade. Services may be provided to children through age 20. **(R)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Assessment and Placement:

The state department of education is responsible for establishing eligibility requirements for enrollment in special classes. Its policy is to provide special classes and services to "school-age students who are handicapped as a result of physical or sensory deficit, mental retardation, or emotional disturbance." The program for handicapped students must include "experiences to compensate for the interference to learning resulting from handicapping conditions, insuring the development of each student to his optimal potential." The placement of students in special classes must be "on the basis of affording the most effective learning environment for each student." **(R)**

A student transfering from a special class in one school to another school in which placement is not immediately possible must be permitted to enroll in the regular classes of the school. **(R)**

The degree to which a handicapped child is integrated into regular classes, if at all, is determined by the nature and severity of the learning handicap.

Children having emotional or intellectual handicaps must be evaluated by a licensed physician eligible for membership in the state medical society. **(HRS 301-21) (L)**

Each district must assume responsibility for the identification of students requiring special instructional services. **(R)**

Regulations imply that the school psychologist carries out all evaluations by reviewing the child's records, observing the child, selecting and administering appropriate tests, interpreting the results of these tests, and writing his report on the child. **(R)**

All students placed in special classes must be re-evaluated annually. All students able to profit from placement in regular classes must be transfered to such classes. Recommendation of continued placement and official enrollment rests with the school principal. The district superintendent is responsible for making the final decision. Where denial of official enrollment is being considered, the principal should be in communication with the parents well in advance of the final decision. A principal-parent conference is required in all cases of denial of official enrollment, unless waived by the parent. A follow-up letter explaining the denial is also required. **(R)**

Minimal hearing testing should include kindergarten and grade 2. **(R)**

Teacher referrals from other grades and known cases from previous years and students new to Hawaii schools also will be tested. **(R)**

Retests are administered by the speech and hearing specialist using a clinical audiometer involving frequencies 250 through 8,000 cps. **(R)**

The retests should follow the screening tests by not more than 2 weeks.

Children with educationally significant losses are retested yearly even though the loss appears to be static.

Children who previously had been referred to the doctor as the result of a past hearing test are retested annually. They are followed until a **fifth retest** indicates that the loss is probably static. They are not referred again to the doctor unless the hearing loss involves a new frequency other than 8,000 cps.

Children with a loss in only one frequency, greater than 30 decibels (ASA 1951) or 40 decibels (ISO 1964), are to be checked annually for 5 years. If the hearing loss spreads to involve a new frequency, a Form 18 is initiated. **(R)**

Medical referrals are made on Form 18. All new cases in kindergarten and grade 2 are invited to the otologic clinic (MCH 31-B). This form is sent home with a copy of the audiogram and Form 18.

If the parents are interested in the clinic, they sign Form MCH 31-B and return all forms to the school. The child then is referred to the public health nurse, who schedules an appointment with the clinic and contacts the parents. The clinic is provided and staffed by the department of health and its otologic diagnostic screening services are provided without charge. **(R)**

At the clinic, the hearing is retested and the child is examined by an otologist. Recommendations for further medical care are made at the clinic and reports are sent to the private doctor. When further medical care is not recommended, Form 18 is filled out and returned to the school. The clinic is invaluable in that unnecessary referral to the private doctor is avoided. If the parents are not interested in the clinic, they are instructed to take Form 18 with a copy of the audiometric test to their doctor. **(R)**

If the level of hearing still is significantly deficient when medical treatment is completed, the following referrals may be made through the district office: (a) Diamond Head School for special school placement — the school is equipped to handle children with profound hearing losses who have not developed sufficient language/speech to benefit from the regular classroom instruction; (b) resource classes — currently there are four hard-of-hearing classes (three at the elementary level and one at the intermediate level). The children in these classes receive intensive remedial help from the resource teachers and integrate into the regular classes wherever possible; and (c) remedial speech services are provided by the speech and hearing specialist for those children requiring speech (lip) reading and/or auditory training. **(R)**

ADMINISTRATIVE RESPONSIBILITY

Education is organized as a statewide public school system with actual program administration under seven district superintendents. At the state level, a department of education is responsible for establishing and administering instruction, special facilities, and special services for the education, therapy, and upgrading of exceptional children and to provide corrective therapy, and academic, occupational, and related training. The department shall also cooperate with other agencies of the state providing any type of services or aid to exceptional children and with the U.S. government, through any of its agencies for developing, extending, and improving instruction, special facilities, or special services. **(HRS 301-22) (L)**

The department is also charged with the responsibility for making any studies, surveys, evaluations, rules, and regulations necessary to carry out the special education program. **(HRS 301-26) (L)**

Within the department of education, the division of special education is established to promote, direct, supervise, and control the special education program. **(HRS 301-23) (L)**

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

A legislative mandate provides $12,000 per class for special education. **(L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Hawaii has a completely state-operated school system.

" 'Special facilities' includes buildings, equipment and materials, transportation, boarding homes, and personnel qualified to work with the exceptional children."

" 'Special services' means physiotherapy or any form of muscle training, speech training, occupational therapy, vocational training, psychological evaluation, or any of them." **(HRS 301-21) (L)**

The special education program includes the provision of boarding facilities, when necessary; special classes in homes or schools, and any other facilities required to render appropriate services to exceptional children. Already existing facilities, buildings, and equipment, belonging to or operated by the state, may be made available for these purposes, if such use does not conflict with the primary purpose of these facilities. **(HRS 301-22) (L)**

The department of health, in cooperation with the department of education, may provide one physiotherapist and one occupational therapist for exceptional children in the primary and elementary grades in the county of Honolulu needing such services. The department may accept funds from private sources and divert any appropriated funds to the board whenever, in the opinion of the board, these funds can be used to better advantage by being so diverted. **(HRS 301-27) (L)**

The department may provide transportation to exceptional children in grades kindergarten through 12. The department, when formulating policy and procedure for the transportation program, must consider such factors as the child's normal school attendance area, distance from school, frequency and availability of public transportation as well as the grade level, and physical handicap or special learning disability of the child. Conditions and circumstances unique to a particular area may also be considered. **(HRS 296-45) (L)**

Transportation must be arranged for children in cases where the local school is unable to provide adequate instruction to compensate for specific handicapping conditions. **(L)**

There is no information available on class size.

Students attending public schools who are in grades kindergarten to 12 and students attending public and private schools in special education classes shall be eligible for transportation subsidy to and from school and from pickup points designated by the department during the regular school calendar year, as adopted by the department, except that the department may provide subsidy for special education classes beyond the regular school calendar year and, to the extent that funds are allocated and made available by the board and in accordance with the following:

1. Students attending public schools in grades kindergarten to 9 who live one mile or more from school, measured along the shortest route approved by the department, shall be eligible for partial subsidy in accordance with the following: the student shall pay the base fare of 10¢ per ride and any cost in excess thereof shall be subsidized by the department.
2. Students attending public schools in grades 10 to 12 who live one mile or more from school, measured along the shortest route approved by the department, shall be eligible for partial transportation subsidy in accordance with the following: the student shall pay the base fare of 10¢ per ride and any cost in excess thereof shall be subsidized by the department.

Notwithstanding 1 and 2 above, the following applies: (a) A student whose family is receiving public welfare assistance and who meets the requirements of 1 and 2 above, shall receive a complete subsidy, provided certification

is received from the department of social services. (b) The department may completely subsidize a student who is
eligible for transportation as set forth in 1 and 2 above, based on the following: (i) each student from a family in
excess of the first three who are currently otherwise eligible for a partial transportation subsidy and or who are
paying the base fare; or (ii) the gross annual income of the family of four or less members is $4,000 or lower; or
(iii) the gross annual income of the family does not exceed $4,000 plus $500 added for each member over four;
(iv) in order to qualify, the parent or guardian must make application for such subsidy on forms provided by the
department; (c) students who attend schools outside of their public school attendance area shall not be eligible
for transportation subsidy, except when required by the department to attend a school other than the school with-
in a public school attendance area on a temporary basis, in which case the student shall receive complete transpor-
tation subsidy; (d) the department shall honor commitments made to provide complete transportation subsidy to
students where public schools were consolidated or where one or more grades were transferred, and where such
students are receiving such subsidy on the effective date of this rule, for the remaining number of years the stu-
dent would normally have been in attendance at the school closed by consolidation or where one or more grades
were transferred. The department is further authorized to make future commitments to provide complete trans-
portation subsidy for a period not exceeding the number of years the student would have been in attendance at
the school to be closed by consolidation or where one or more grades are to be transferred, and (e) students who
are not classified as authorized riders shall not be eligible for transportation subsidy.

3. Special education students attending special education schools or classes shall be eligible for complete transportation subsidy.

Notwithstanding the above, the following shall apply: (a) unless approved by the district superintendent's of-
fice, the transportation subsidy shall apply from the special education student's residence to the nearest special
education class or school; (b) a student who is eligible for placement as mentally retarded educable or with a
specific learning disability by the department shall receive the same transportation benefits as a student attending
regular school if he attends such class or school in his school attendance area. Exceptions may be granted by the
district superintendent's office. Forms to request such exceptions may be obtained at the appropriate district
superintendent's office.

No carrier or motor vehicle shall be used for the transportation of handicapped students eligible for benefits un-
less specifically approved by the executive officer of the county or his authorized representative and by the police
department of the county, as being safe for the transportation of such students. **(R)**

Enforcement shall be carried out by the executive officer of the county or his authorized representative and by
the police department of the county. **(R)**

PRIVATE

Private schools enrolling students who are required by law to attend school or who are otherwise eligible to attend public schools shall provide a program of instruction which will assure such students the opportunity to receive an education at least equivalent to minimum standards established by the state. To this end the following rules shall henceforth be adhered to in granting licenses to private schools. Licensed schools in operation which do not meet the standards set shall be granted a period of two years in which to make the adjustment to full compliance after which time their licenses may be revoked. **(R)**

" 'Private school' shall mean a school or classes established and maintained by other than the state or its subdivisions, for the purpose of offering instruction in compliance with school attendance law for a consideration, profit or tuition, to five or more pupils at one and the same time or to twenty-five or more pupils during any school year, irrespective of the hours during which the sessions take place, the purpose of which is to educate an individual generally or specifically or to prepare an individual for more advanced study, and shall include all schools engaged in such education, except colleges or universities, schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged, schools or classes conducted for avocational, religious, or recreational purposes, and vocational, technical or trade schools and correspondence schools." **(R)**

"Schools classified according to the following designations or purposes are within the meaning of the term 'private school': kindergartens, elementary schools, secondary (junior and senior) schools, special schools such as for the mentally retarded, for the brain damaged and for other persons who require special instruction and fall in the area of special education.

" 'Kindergarten' A group or class that is organized to provide continuous educational experiences for children for the year immediately preceding the first grade and conducted during the regular school year under the guidance of a qualified teacher." **(R)**

Each school shall formulate a written statement of its philosophy and objectives.

The philosophy and objectives of a private school shall not be inimical to the ideals of American democracy or to the generally accepted educational concepts and practices of public and private schools of this nation.

This statement of philosophy and objectives shall be on file in each school at all times. **(R)**

A cumulative and sequential educational program which provides a range of up-to-date knowledge and needed skills and which takes into account the unique interests, needs, and abilities of each student shall be developed. The program includes, but is not limited to, the areas of reading, composition, speech, mathematics, social studies, science, art, music, and health and physical education, to be offered at the appropriate developmental stage of each individual.

Instructional guides outlining the educational program shall be filed with the department of education. **(R)**

The length of the school day and length of the school year shall be determined by the private school, as long as the amount of school instruction is equal to or substantially equal to the amount of instruction offered in the public schools. **(R)**

Each private school shall provide textbooks, reference books, general reading materials, and other resources, including audio-visual materials in such quantity as will allow the requirements of the educational program to be met. **(R)**

The number of teachers employed in a private school shall be large enough to provide a quality educational program in terms of the philosophy and objectives of the school. **(R)**

Teachers, including librarians, counselors and administrators, of private schools shall be certified by the department on the basis of earned diplomas from accredited colleges or universities. Certification of those with a bachelor's or higher degree will be on a continuing basis. **(R)**

The school shall provide buildings and playgrounds which are adequate to provide a quality educational program in terms of the philosophy and objectives of the school. **(R)**

The classrooms shall be sufficient in number, adequate in space, and so arranged as to be conducive to carrying on the assigned activities. Playgrounds and physical education facilities shall be well maintained, free from hazards, and large enough to permit an adequate program of physical education. **(R)**

A sufficient variety and quantity of classroom and outdoor equipment shall be provided to permit a quality educational program in terms of the philosophy and objectives of the school. The equipment shall be free of hazards and in good repair at all times. Classroom furniture and playground equipment shall be scaled to the size of the students using it. **(R)**

Each school providing transportation to children shall comply with local city and county, county and state statutes, and rules and regulations of government agencies having jurisdiction. **(R)**

Prior to licensing, applicants shall obtain certificates of occupancy and clearance for all school buildings and premises from both the city and county or county buildings department and the state department of health and have copies of these reports sent to the department of education. On islands other than Oahu, a separate fire safety clearance is required. Licensing of a school will be considered only after these agencies have provided satisfactory reports. **(R)**

Application for a license to establish and operate a private school shall be made to the department upon forms provided for this purpose and shall be accompanied by such additional information as may be required. Application form shall be completed and filed not less than 90 days before the opening date for the new school. **(R)**

An applicant shall file letters from at least three persons testifying to his character and professional ability and that he is competent to conduct such a school as proposed. **(R)**

An applicant shall show evidence of financial responsibility to fulfill his commitments to provide education and training. **(R)**

A school shall not advertise, solicit students, or begin operation unless approval to do so has been granted. **(R)**

A provisional license may be granted for purposes of recruiting students and teachers during the period of building construction provided the plans for the buildings and for the educational program are acceptable to the department. **(R)**

A temporary license may be issued for a period of one year at the expiration of which the situation will be reviewed to see if a regular license can be issued. At the discretion of the department an extension of not more than two years may be granted. **(R)**

A license shall be issued in the name of an individual, a partnership or a corporation and may not be sold, transferred or pledged. It shall be posted in a prominent place. **(R)**

A license shall be limited to a specific location, grades, and the general curriculum for which the application is approved and is valid until surrendered by the school or revoked by the board. If approval is desired for a new location, additional locations or grades, application must be made to the department in such manner as the applicant may be directed.

A school ceasing to operate shall so inform the department and surrender its license.

Personnel of the department will make supervisory visits to each licensed private school periodically for the purpose of ascertaining compliance with the foregoing rules and to render such assistance as can be given in response to requests that may be filed with the department.

The department may require regularly established private schools to submit reports in such forms as it may deem proper.

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Basic or Professional Teacher's Certificate in Special Education

may be issued upon completion of an approved baccalaureate or postgraduate teacher training at an accredited college or university with a major or specialization in special education.

Endorsement on the Regular Basic or Professional Teacher's Certificate in one of the seven special areas may be granted when the applicant meets one of the following requirements:

a. Eighteen semester hours of course work directly related to the understanding and teaching of special education classes (of which nine must be directly related to the understanding and teaching of students in one of the seven defined categories)

OR

b. Two years of satisfactory teaching experience in the Hawaii public schools in the area of specialization nine semester hours of course work directly related to the area of specialization.

FACILITIES

Since Hawaii's education system is completely state operated special education facilities are financed through state appropriations. No additional legal provisions are provided.

STATE PROFILE

IDAHO

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

IDAHO

RIGHT TO AN EDUCATION

Constitution: "The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools." **(Art. IX, Sec. 1, Idaho Const.) (L)**

"All children with sufficient mental and physical ability shall attend the public schools throughout the period between the ages of six and 18 for a time equivalent to three years, unless educated by other means." **(Art. IX, Sec. 9, Idaho Const.) (L)**

Compulsory Attendance Law: A child is exempted from the compulsory attendance law "if a reputable physician within the district shall notify in writing that the child's bodily or mental condition does not permit his attendance at school." **(Sec. 33-202 Idaho Code) (L)**

The parent or guardian of any child between the ages of seven and 16 shall have the child instructed in the subjects taught in the public schools of the state of Idaho. Unless the child is comparably instructed, the parent or guardian must have the child attend a public, private, or parochial school during the school year. **(Sec. 33-202 Idaho Code) (L)**

State institutions for the deaf and blind will admit "all children between the ages of six and 21 who are too deaf or too blind to be educated in the public schools. . . ."

Children under age six may be admitted when, in the opinion of the superintendent and approved by the board of education, they are proper subjects to receive training and education at the school, and when the facilities are adequate for their care, training, and education. **(Sec. 33-3407 Idaho Code) (L)**

If the board of trustees of a school district receives a written statement from a licensed physician or psychiatrist that a child's physical, mental, or emotional condition does not permit attendance at a school, and a petition is filed by the parent or guardian requesting the child's exemption from the compulsory attendance requirements, the board may grant, at its discretion, the exemption during the existence of the condition. The board may require, from time to time, an additional examination of the child. **(Sec. 33-204 Idaho Code) (L)**

The board may suspend or expel any pupil who is habitually truant, incorrigible, or whose conduct, in the judgment of the board, is continuously disruptive of school discipline, instruction, or effectiveness of the school. Any suspended or expelled pupil may be readmitted to the school on conditions set by the board. Readmission does not prohibit suspensions or expulsions.

Before expelling a student, the board of trustees must notify the parent or guardian of a time and place to appear to show why the student should not be expelled. Any pupil, who is expelled and who is within the age of compulsory attendance comes under the purview of the youth rehabilitation law, and an authorized board representative must file a petition with the probate court of the county of the pupil's residence in any form the court may require. **(Sec. 33-205 Idaho Code) (L)**

The legislature of the state of Idaho resolved that the following amendment be submitted to the electors of the state at the next general election: "Shall Section 9 Article IX of the Constitution of the State of Idaho relating to compulsory attendance in schools be amended to provide that the legislature may require that every child shall attend the public school of the state unless educated by other means as provided by law?" If the electives approve, section 9 will then read: "The legislature may require by law that every child shall attend the public schools of the state, throughout the period between the ages of six and 18 years, unless educated by other means as provided by law." **(Senate Joint Resolution #124, Idaho 1972) (L)**

Policy: "Each public school district is responsible for the education and training of exceptional pupils resident therein." **(Sec. 33-200 Idaho Code) (L)**

Responsibilities: Each public school district is responsible for and shall provide for the education and training of their resident exceptional pupils. Every public school district in this state may provide instruction and training for persons to the age of 21 who are exceptional as defined by the state board. **(Sec. 33-2001 Idaho) (L)**

POPULATION

Definition: " 'Exceptional children' means those children whose handicaps or capabilities are so great as to require special education and special services in order to develop to their fullest capacity. This definition includes, but does not limit itself to, those children who are physically handicapped, mentally retarded, emotionally disturbed, chronically ill, or who have perceptual, visual or auditory handicaps or speech impairment, as well as those children who are so academically talented that they need special educational programs to achieve to their fullest potential." **(Sec. 33-2002 Idaho Code) (L)**

If the superintendents of the schools for the deaf and the blind ascertain that a pupil has ceased to make progress or is no longer benefitting by attending the school, the child may be released from the school with the approval of the board of education. **(Sec. 33-3407 Idaho Code) (L)**

The perceptually impaired child "is an exceptional child who demonstrates a significant loss of hearing or vision, or significant physical handicap such as cerebral palsy, muscular dystrophy, etc. The learning disability may be associated with maladaptive social-emotional behavior which is held to be secondary or consequent to academic failure and school non-success." The term, learning disability, is defined as "a marked discrepancy between apparent functioning in the classroom environment appropriate to the child's chronological age.

Age of Eligibility: Exceptional children are eligible for services from birth through age 21. **(L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: By February 1 annually, the clerk of each school district must report the number of deaf and blind pupils attending the district's schools as well as other children who are not pupils in the schools but of whom they have knowledge. The report is made to the superintendent of the state schools for the deaf and the blind. **(Sec. 33-3408 Idaho Code) (L)**

Licensed physicians are required to provide to the state department of health on appr

forms children suspected of having severe auditory and/or visual impairment. In addition, if any physician or optom audiologist, or any certified person giving an examination receives as a patient any child suspected of having severe auditory or visual impairment who he believes has not been reported, it is his duty and responsibility to include this information on the report. Parents must be notified by the person reporting that their child has been reported. **(Sec. 39-427 Idaho Code) (L)**

Screening: Pupils may also be identified through group psychological testing, conducted mainly by a school psychologist. **(R)**

Assessment and Placement: Prior to enrollment or placement in special education classes and the expenditure of funds for exceptional children, the student must be comprehensively evaluated in accordance with the regulations of the state department of education. **(R)**

Generally, the evaluation may include vision testing of academic and learning abilities and measurement of social and emotional development. **(R)**

A comprehensive evaluation is one which takes into account the physical health and condition, the intellectual ability, the psychological assets and liabilities, social adjustment and adaptivity, educational achievement, and potential of the individual. **(R)**

All of the information shall be collected, evaluated by a special education admissions and discharge committee, and contained in a case study report, which shall be made available to a representative of the state board of education upon request. **(R)**

An assessment of the physical health status should be made by a licensed physician or health agency. It shall include a record of assessment of the child's visual acuity and auditory acuity, as well as a statement of general physical condition and consideration of any physical condition which might significantly affect the child's ability to function in the school setting. **(R)**

An assessment of the intellectual and psychological status of the child must be made by a certified school psychologist, school psychological examiner, or by a licensed psychologist. **(R)**

This area must be reported in a written description by the school nurse, public health nurse, classroom teacher, social worker, school counselor, responsible school official, or combinations of these professional persons, toward describing the behavioral evidence and condition significant in describing the child's social-emotional adjustment and adaptability. **(R)**

An assessment of the educational status and an estimate of the child's ability or potential should be made by his present classroom teacher, former classroom teachers, resource teachers, supervisors, school administrators, or combination of these. **(R)**

The special education admission and discharge committee must consist of, but is not limited to, the following persons: a certified school psychologist, psychological examiner, or a licensed psychologist; a school nurse or public health nurse, a certified teacher of exceptional children, and school superintendent or an educator designated by him. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The state board shall determine eligibility criteria for exceptional children, qualifications of special teachers and special personnel, programs of instruction, and minimum standards for classroom and equipment to be used in administering this act. **(Sec. 33-2001 Idaho Code) (L)**

The state board is also responsible for:

1. establishing an administrative unit in the state department of education to administer the special education programs;
2. establishing programs, setting standards, and employing the necessary supervisory and clerical personnel to assist and direct school districts in educating and training exceptional children;
3. establishing a research program to evaluate existing programs, assessing the number and types of handicapped children, and making recommendations for serving them, and
4. formulating and revising regulations and standards for determining eligibility of children for special services and training. **(Sec. 33-2003 Idaho Code) (L)**

The Idaho schools for the deaf and the blind are under the general supervision of the state board of education. **(Sec. 33-103 Idaho Code) (L)**

PLANNING

By July 10 each year, boards of trustees of all school districts must submit projected plans for providing special education in the upcoming year to the state board. When requested by the state board, districts must submit projected long-range plans and a progress report of special education services provided within a specific district or jointly with other school districts. **(L)**

A school district or combination of school districts may submit, to the board of education, a plan for the provision of vocational services for handicapped students under age 22. The plan may be approved or disapproved by the state board. If approved, the plan is entitled to all the considerations and benefits available by law to the educational programs of the school district. **(L)**

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FINANCE

Each school district must report, before July 10 each year, to the state board the number of resident exceptional children eligible for special education, and must compute the average district per pupil cost of providing special edu

33-2009 Idaho Code) (L)

When special education services utilize full-time or part-time ancillary or itinerant personnel, the district receives from the state board of education 80 percent of the salaries for them as part of their educational foundation program. When exceptional children receive services in approved special education classes, the district qualifies for the handicapped child factor in the education foundation program. (Sec. 33-2005 Idaho Code) (L)

The handicapped child factor is calculated for the state and for each individual school district to provide for the education of handicapped pupils. The factor is obtained by multiplying the average daily attendance of handicapped children by 300 percent for either the state or the school district, as the case may be. (Sec. 33-1002 Idaho Code) (L)

If a district contracts with another school district or any private or public rehabilitation center, hospital, or corporation, the sending district pays a tuition rate computed in the following manner:

1. To another school district: the annual tuition rate of the receiving district as shown in the last tuition certificate.
2. To a rehabilitation center, hospital, or corporation: the tuition rate of the sending district as computed above and the district's reimbursement under the handicapped child factor of the education foundation program. One district is designated as the educating district when public school districts contract for the education of exceptional children residing within several districts. When a student attends a rehabilitation center, hospital or corporation, the home district of the child considers the child as a resident in average daily attendance. (Sec. 33-2004 Idaho Code) (L)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The trustees of the school district may contract to educate an exceptional child by another school district or by any public or private rehabilitation center, hospital, or corporation approved by the state board. (L)

When such students are transferred from the school district to the institution, corporation, or the district, the transferring district shall agree to pay to the institution, corporation, or district amounts as computed as follows for each student:

1. To another school district, the annual tuition rate of the receiving district as shown by the certificate last issued to the district under the provisions of Idaho code section 33-1405. (L)
2. To the rehabilitation center, hospital, or corporation, the tuition rate of the sending district as computed above and the district's reimbursement under the handicapped child factor in the education foundation program. One district is designated as the educating district when public school districts contract for the education of exceptional children residing within several districts. When a student attends a rehabilitation center, hospital, or corporation, the home district of the child considers the child as a resident in average daily attendance. (L)

SERVICES

" "Special services" for exceptional children may include those services provided by special education teachers as well as ancillary and itinerant personnel, such as visiting teachers, speech therapists and audiologists, school social workers, and psychologists. Supervisors of special education programs and directors of special education programs whose major responsibilities are in the supervision and administration of special education programs are considered as providing service under this act." (Sec. 33-2002 A Idaho Code) (L)

The one and one-half mile limitation for the provision of transportation may be waived by a board of trustees of a school district if the age or the health of the pupil warrant it. (Sec. 33-100a Idaho Code) (L)

If a child living in a non-transportation zone is eligible for transportation for another reason, the board of trustees of a local district may then reimburse the parent or guardian of the child for the costs incurred for the child's board and lodging, as authorized by the state board of education. (Sec. 33-1503 Idaho Code) (L)

Transportation is provided to and from special day classes and the state school for the deaf and blind. (L)

Class Size:	NUMBER OF PUPILS	
	Minimum	Maximum
LEARNING DISABLED	--	24
Special Class (Grades 1-6)	--	28
Special Class (Grades 7-9)	--	32
Special Class (Grades 10-12)	--	10[1]
Resource Room - Interim Teacher Certification	--	15[2]
Resource Room - Full Teacher Certification		
EDUCABLE MENTALLY HANDICAPPED	--	12[3]
Special Class	--	12[4]
Resource Room		
TRAINABLE MENTALLY HANDICAPPED	--	12[3]
Special Class	--	12[4]
Resource Room		

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[1] 15 with aide

[2] 20 with aide

[3] 15 when teacher has interim certification and full-time aide. 18 when teacher has full certification and full time aide

PRIVATE

School districts may contract with any private rehabilitation center, hospital, or corporation approved by the state board of education. See Finance. **(Sec. 33-2004 Idaho Code) (L)**

Physically handicapped, mentally retarded, emotionally disturbed, chronically ill, perceptually impaired, visually or aurally handicapped, speech impaired, and other handicapped children requiring special education and/or services are eligible for private placement. **(R)**

Districts may contract with any private rehabilitation center, hospital, or corporation approved by the school board if there are no programs within the school districts. **(R)**

The local district pays tuition, at a rate computed by law, to the private agency. This amount includes money reimbursed to the school district by the state under the handicapped child factor of the education foundation program. **(R)**

Placements may be approved in facilities both within and without the state if the facilities are approved by the Idaho board of education. **(R)**

The agency operating the facility must annually apply for approval to provide services for a designated classification of exceptional children, or a combination of such classifications. The application must contain the organization's name, address, legal status, and purposes, a description of its services, and degrees, certifications and professional authorization and the geographic area served. **(R)**

The application must also state the proposed contractual arrangements, including the type, number, and age range of pupils, the names and title of staff providing services, their certification, details of program organization and supervision, and a description of the facility, its equipment and instructional materials. **(R)**

A statement of assurance by the submitting agency that the special education services carried out under contract will supplement but not replace any existing special education program operated by school districts within the services area must also be in the statement. **(R)**

The application must be submitted to the state board of education by the state director of special education. **(R)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

The Exceptional Child Certificate No. 8

Auditory Impaired Endorsement -- valid for five years: renewable, master's degree: 30 hours of specialized course work in the area of auditory impairment

Visually Impaired Endorsement -- valid for five years: renewable, master's degree: 24 hours of specialized course work in the area of the visually impaired and 4/8 hours in supervised observation and/or student teaching of the visually impaired. Two years of teaching experience is recommended.

Emotionally Disturbed/Socially Maladjusted Endorsement -- valid for five years: renewable master's degree: 30 hours of specialized course work in the area of behavioral science directly related to emotionally disturbed and socially maladjusted and 8 hours of supervised observation and observation and teaching of emotionally distrubed and socially maladjusted children.

Mentally Retarded Endorsement -- valid for five years: renewable, master's degree: 24 hours of coursework in the area of the mentally retarded and a practicum to include supervised and directed experience with retarded children.

Perceptually Impaired Endorsement -- valid for five years: renewable: master's degree: 30 hours to include behavioral science courses related to the etiology and psychology of children with perceptual impairment and related courses. Eight hours of supervised observation and teaching and clinical experience with children with perceptual impairment.

Multiple Handicapped Endorsement -- valid for five years: renewable: master's degree: 30 hours of coursework in the specialized area and an appropriate supervised observation and experience in teaching in this area.

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

STATE PROFILE

ILLINOIS

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The General Assembly shall provide a thorough and efficient system of free schools, whereby all children of this State may receive a good common education. . ." **(Art. VIII, Sec. 1, Ill. Const.) (L)**

Compulsory Attendance Law: Any person having control of any child between the ages of seven and 16 shall send the child to some public school in the child's district of residence during the entire time the regular school term is in session.

Exemptions from the compulsory school attendance law may include "any child who is physically or mentally unable to attend school, such disability being certified to the county or district truant officer by a competent physician, or who is excused for a temporary absence by the principal or teacher of the school which the child attends." **(Sec. 26-1, Ill Stats.) (L)**

Responsibilities: School boards of any school district shall establish and maintain the necessary special educational facilities for all handicapped children who are residents of their school district and any other children who are residents of other districts, as authorized under Illinois law. **(Sec. 14-4.01, Ill. Stats.) (L)**

Services must be established for deaf or hard of hearing children between the ages of 3 and 21 whose hearing loss makes it "impracticable or impossible for them to benefit from or participate in the normal classroom program of the public schools in the school district in which they reside and whose intellectual development is such that they are capable of being educated through a modified classroom program." **(Sec. 14-1.02, Ill. Stats.) (L)**

Each local school district, independently or in cooperation with other school districts, shall provide a comprehensive program of special education which will meet the needs of children with the following exceptional characteristics:

1. auditory, visual, physical, or health impairment;
2. speech and/or language impairment;
3. deficits in the essential learning of perception, conceptualization, memory, attention, and/or motor control;
4. deficits in intellectual development and mental capacity;
5. educational maladjustment related to social and/or cultural circumstances; and
6. affective disorders and/or maladaptive behavior which restricts effective functioning. **(Sec. 6-14.4, Ill. Stats.) (L)**

Local Boards of Education have no right to exclude children who are considered feebleminded, sub-normal or unteachable. No statute allows for their exclusion without the consent and cooperation of the parents or guardian of the handicapped child. **(Op. Att'y. Gen., September 10, 1929 and November 27, 1931)**

School officials can legally exclude children who are under the suspicion of having an infectious disease. This exclusion can continue until a competent physician's examination shows the child no longer has the contagious disease. **(Op. Att'y. Gen., August 21, 1933)**

If a school system decides not to maintain classes and schools for deaf children and instead send their handicapped children to another district, the sending school district must pay tuition and transportation cost for the education of the children. **(Op. Att'y. Gen., February 17, 1930)**

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POPULATION

Definitions: " 'Physically handicapped children' means children, other than those with a speech defect, between the ages of three and 21 who suffer from any physical disability making it impracticable or impossible for them to benefit from or to participate in the normal classroom programs of the public schools, in the school districts in which they reside and whose intellectual development is such that they are capable of being educated through a modified classroom program." **(Sec. 14-1.02, Ill. Stats.) (L.)**

" 'Children with specific learning disabilities' means children between the ages of three and 21 years who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such terms do not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, emotional disturbance or environmental disadvantage." **(Sec. 14-1.02a, Ill. Stats.) (L.)**

" 'Maladjusted children' means children between the ages of three and 21 years, who because of social or emotional problems, are unable to make constructive use of their school experience and require the provision of special services designed to promote their educational growth and development.

"No emotionally maladjusted child may be excluded by school authorities from a special education program on the grounds of his being so grossly handicapped as to make his education nonfeasible until after a joint consultation with the parents and the department of mental health." **(Sec. 14-1.03, Ill. Stats.) (L.)**

" 'Speech defective children' means children between the ages of three and 21 years whose diagnosis by a certified teacher meeting the requirements of the superintendent of public instruction as a qualified speech correctionist, indicates that specialized instruction would improve or correct the defects." **(Sec. 14-1.06, Ill. Stats.) (L.)**

" 'Multiply handicapped children' means children between three and 21 years who may be placed within two or more classifications of this article or at least two different programs provided under Section 14-1.02 of this article." **(Sec. 14-1.07, Ill. Stats.) (L.)**

" 'Deaf children' are defined as those children in whom the residual hearing is not sufficient to enable them to understand speech and develop language successfully, even with a hearing aid, without specialized instruction. Two interpretations of a deaf child are noted:

"a. An audiological interpretation of a deaf child is generally understood to be a child with a hearing loss approaching an average of 75 or 80 decibels or greater across the speech range in the better ear without a hearing aid.

"b. An educational interpretation of a deaf child is generally understood to include a child with a hearing loss approaching an average of 60 or 65 decibels across the speech range, in the better ear without a hearing aid, and who is unable to develop language successfully, even with a hearing aid, without special education." **(R)**

" 'Hard of hearing children' are defined as those children in whom the sense of hearing, although defective, is functional with or without a hearing aid, but whose hearing loss causes a language deficit rendering them unable to make full use of the regular school experiences without special services." **(R)**

Educable mentally handicapped are "children between the ages of three and 21 who, because of retarded intellectual development, are incapable of being educated profitably and efficiently through ordinary classroom instruction, but who may be expected to benefit from special educational facilities designed to make them economically useful and socially adjusted."

Trainable mentally handicapped are "children between the ages of thress and 21 who, because of retarded intellectual development, are incapable of being edicated propoerly and efficiently through ordinary classroom instruction or special education facilities for educable mentally retarded children, but who may be expected to benefit from training in a group setting designed to further their social adjustment and economic usefulness in their homes or in a sheltered environment."

Age of Eligibility: All handicapped children are eligible for programs from age three to 21. **(Sec. 14-1.07, Ill Stats.) (L.)**

Children with organic heart disease, even though they cannot safely be educated in a regular classroom are not considered crippled children. This is because they are "deformed in body or limb." Thus, school systems are not eligible for reimbursement for the special care given these children. **(Op. Att'y. Gen., September 26, 1933)**

Illinois Revised Statutes 1941, Chapter 172, Paragraphs 686 to 693 provide special funds for the education of delinquent children. "Delinquent children" is defined as to include "truant" and "incorrigible" children. **(Op. Att'y. Gen., December 12, 1941)**

Definitions given in one act apply only to that specific act. The legislature has the power to change the definitions. The term "physically handicapped child" means any child of sound mind who has a physical disability which makes it impossible to attend a regular classroom. This does not include children with only a temporary physical disability. **(Op. Att'y. Gen., September 2, 1943)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: A census must be taken by the school districts before April 1 every fourth year of all handicapped children in or out of school. Findings are reported to the superintendent of public instruction by June 1 of each year the census is taken.

After the findings of the census are reviewed, the superintendent may call together two or more districts in which handicapped children reside who are not receiving the special education services they require for the purpose of recommending to a district to take the responsibility for the establishment and administration of a special education program. Prior to the determining whether districts should jointly provide the services, geographic and other factors are to be considered. **(Sec. 3-15.11, Ill. Stats.) (L)**

An annual report from the department of health is required which contains a census of all the children receiving special education services within the state mental health facilities during the year and also per capita expenditures for special education. **(Sec. 2-330, Ill. Stats.) (L)**

Screening: Physical examinations prescribed by the department of public health will be required of all pupils in the public, private, and parochial elementary and secondary schools immediately prior to, or to permit entrance into, kindergarten or the first grade and upon entrance into the fifth and ninth grades or irrespective of grade immediately prior to or upon entrance into any public, private, or parochial school if that pupil has previously not been examined. Additional health examinations of pupils may be required if deemed necessary by school authorities. **(Sec. 27-8, Ill. Stats.) (L)**

In identifying the deaf and hard of hearing, visual examination is required when defective vision is suspected. The health department has the responsibility for the all-school hearing testing program.

A psychological evaluation is necessary where there is a question of a learning disability. **(R)**

When attempting to identify the speech handicapped, in districts beginning a program, the speech correctionists shall make a careful survey of the children to ascertain the number and types of cases. However, in districts where the total enrollment indicates there will be a larger case load than can be served by the employed teachers of special correction, the administration should select the area to be surveyed. This may be done by choosing certain schools or certain grades, but the total number survey by one teacher should not exceed 1,000.

The speech correctionist should recognize that certain speech problems result from physical conditions and that these conditions require medical diagnosis and treatment. The speech correctionist should recognize that in some cases the plan for speech therapy is contingent upon medical treatment and recommendation. **(R)**

Assessment and Placement: For the deaf and hard of hearing, prior to enrollment, an otological examination is required and subsequent examinations are required at least every two years unless this recommendation is modified by the otologist. An audiological evaluation from an approved hearing clinic is also required and subsequent evaluations should be made at the request of the teacher, but not less frequently than every two years unless this recommendation is modified by the audiologist. **(R)**

A specified method of referral shall be made known and accessible to all concerned persons. All children who may require special education services shall be referred to the designated resource for evaluation and appropriate educational planning. **(R)**

All children who have been referred shall be given an evaluation appropriate to the problems manifested.

When the child experiences problems which significantly interfere with his learning or which suggest that he will require a special education instructional program or intensive special education instructional services, he shall be given a complete case study evaluation. A case study evaluation shall include, but not be limited to: (1) social developmental study, (2) medical history and health status, (3) vision and hearing screening, (4) academic history, (5) educational evaluation, and (6) psychological evaluation.

The intensity of these evaluative processes and the introduction of additional evaluative techniques shall be determined by the nature and severity of the child's problems.

A full psychological evaluation shall be required to determine the presence of mental impairment or learning disability. A full evaluation shall consist of study of the referral material, in-depth evaluation of the child's abilities, achievements, emotional status, and special abilities and disabilities and such other activities as are required to complete the total psychological profile of the child.

When a full psychological evaluation is neither required nor appropriate, the psychologist may at his professional discretion utilize evaluative procedures other than formalized testing. This may include systematic observation of the child and his environment, interviews with the child, his parents, the teachers, pupil personnel staff, physicians, or community agencies or consultative evaluation in the staff conference. **(R)**

When the child experiences problems which suggest that he will require only speech or language service (itinerant or resource), school social work service, school psychological services, home and hospital services, or non-intensive instructional service, he shall be provided with those evaluative processes which are necessary or appropriate to the determination of his needs. **(R)**

A qualified psychological examiner must be responsible for the psychological evaluation of all children in special education programs in that school system when a psychological study is required. When a local school system agrees to accept a child from a neighboring school system, a qualified psychological examiner in the system operating the special program must conduct the psychological evaluation of that child, to determine the child's eligibility and to furnish any further evaluations which may be needed. Where the district of residence employs a psychologist, that psychologist may do the original evaluation to determine eligibility. The qualified psychological examiner has the responsibility of meeting the requirements for approved psychological study. These requirements are:

1. adequate study and evaluation of each child, using individual diagnostic methods and materials suitable in each particular case. Except for screening, adequate study includes study of ability, achievement, personality, and special abilities and disabilities, as well as study of referral materials and of any other significant factors and data;
2. staff conference with school personnel for each child studied;
3. individual conferences with school personnel and with parents when needed, and
4. adequate written reports showing findings and recommendations. (R)

When indicated, appropriate medical examinations will be required. Psychiatric consultation must be provided for all children considered for admission to individual instruction, itinerant teaching, or special classes for the emotionally disturbed. Reports of all examinations and consultations must be in the case study for consideration at staff conference. Mentally handicapped and multiply handicapped children must not be included in individual instruction, itinerant teaching, or special classes under this article. (R)

A child whose primary language is other than English shall be evaluated in his primary language. Such a child shall not be assigned to a special education program on the basis of criteria developed solely upon the command of the English language. (R)

When the child's problems indicate the need for a case study evaluation, the parents or guardians shall be notified and given the opportunity for a personal conference concerning the child's problems prior to the implementation of the evaluation. (R)

The case study evaluation shall be completed within a reasonable period of the date of referral generally not exceeding 90 calendar days. (R)

The local school district shall be responsible for assisting the parents in locating and utilizing extended diagnostic processes when these are indicated by the nature of the child's problems. No child shall be prohibited from receiving special education services because he is financially or otherwise unable to obtain the extended diagnostic services. (R)

Eligibility for special education programs and services shall be determined by the presence of one or more of the following exceptional characteristics:

1. Visual impairment. The child's visual impairment is such that he cannot develop his educational potential without special services and materials.
2. Hearing impairment. The child's residual hearing is not sufficient to enable him to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication. Or, he exhibits a hearing loss which prevents full awareness of environmental sounds and spoken language limiting normal language acquisition and learning achievement.
3. Physical or health impairment. The child exhibits a physical or health impairment either temporary or permanent which interferes with his learning and/or which requires adaptation of the physical plant.
4. Speech and/or language impairment. The child exhibits deviations of speech and/or language processes which are outside the range of acceptable variations within a given environment and which prevent full social or educational development.
5. Learning disability. The child exhibits one or more deficits in the essential learning processes of perception, conceptualization, language, memory, attention, impulse control or motor function.
6. Educational handicap. The child exhibits educational maladjustment related to social or cultural circumstances.
7. Behavioral disorder. The child exhibits an affective disorder and/or adaptive behavior which significantly interferes with his learning and/or social functioning.
8. Mental impairment. The child's intellectual development, mental capacity, adaptive behavior and academic achievement are markedly delayed. Such mental impairment may be moderate, severe, or profound.
9. Multiple impairment. The child exhibits two or more impairments severe either in nature or in total impact, which significantly affect his ability to benefit from the educational program. (R)

Eligibility for and the provision of a special education instructional program or instructional services shall be determined at one or more multidisciplinary staff conferences. Participants in these conferences shall include appropriate representatives of the sending school, the special education director or his designee, all those school personnel involved in the evaluation of the child and those who will be responsible for the provision of the appropriate special education services.

The purpose of the conference shall be to: (a) develop a profile of the child's learning characteristics, sensory and motor skills and behaviors, determine the child's unique educational needs, determine the extent to which the standard program can meet these needs, determine the nature and degree of special education intervention, and develop an educational plan which indicates specific objectives to be attained by the child.

To achieve these purposes the participants in the conferences shall consider all information developed through the case study evaluation. The opinions and concerns of the child's parents shall be presented as a significant part of this information. (R)

A written report of the results and recommendations of the conference shall be kept on file by the local district and by the special education cooperative unit. This report shall be dated, shall list the names of all those in attendance and shall be signed by the person who has prepared it. (R)

The parents or guardians of each child receiving a case study evaluation to determine his need for special education shall be provided with an understandable explanation of the evaluation and of the educational plan drawn to meet his needs.

When the educational plan involves an initial placement in a special education instructional program or instructional services, the parents shall receive notification of such determination at least 10 calendar days prior to the proposed placement. Such notification may take place at a conference between the parents and appropriate school personnel or by a letter containing a written statement of the school's placement decision including: the reason for the place-t decision, the special education rules and regulations and any local district policies upon which the action is n, a description of the tests and reports upon which placement is predicated, plans for implementing the deci- , alternative educational opportunities available to the child, if any, and the right to a review of the proposed ement.

hen the notification occurs at a conference, the conference shall take place at least ten calendar days prior to ement. The parents shall be given a written statement as specified above at that time.

the parents are advised as stated above, and approved the placement decision by not requesting a review of same, ement shall occur. By mutual agreement between parents and school personnel placement may be made at any e after notification. (R)

the parents object to the proposed placement, they may request a review of same prior to the placement or hin ten school days after the placement has been made. Thereafter, no review may be requested until 60 calendar s following the placement or until the end of the semester, whichever may first occur. (R)

request for a review of educational placement shall stay any special education placement until the review has n completed. If the child has already been placed in a special education program, the parents and school personnel y mutually agree that the placement may stand while the matter is being reviewed. (R)

Vhen special education placement has been authorized, procedures which will assist the child in making the tran on into the special education program shall be developed and implemented. (R)

All services provided by the school district shall be made available to the child receiving special education services.)

ach child in a special education instructional program or receiving a supportive service shall be provided with all litional special education services which he may require. (R)

A child receiving special education services shall be provided with those materials and equipment which are essen- to his educational development. All equipment and materials utilized in special education programs or services ll be appropriate to the children's needs and in adequate supply. (R)

The educational development of a child receiving special education services shall be evaluated and reported in re- ion to the individual objectives established for him. (R)

A comprehensive report of the educational development of a child receiving special education services shall be vided to the parents or guardians of the child at intervals consistent with the district's regular reporting process.)

Vithin the limitations of his exceptional characteristics, each child shall also be given regular reports concerning educational development. (R)

The educational status and continued placement of each child in an instructional program or receiving special edu- ion supportive services shall be reviewed in a multidisciplinary staff conference.

tilizing appropriate evaluation information including teacher and parent opinions, this review shall determine the tent to which the child has met the objectives set for him and recommend further diagnostic evaluation if this ndicated and revise the plan as necessary.

When a child who has been in an early childhood developmental program is ready to move to the primary level, ecial attention shall be given to determining whether he could develop commensurate with his potential abilities. a standard program. (R)

An annual report concerning each child enrolled in a special education instructional program or receiving direct ecial education supportive services shall be provided to the child's home school or district. (R)

Notification of ongoing placement of a child in a special education instructional program or instructional services all be communicated to the parents by mail at least 10 calendar days prior to the beginning of school each year. ()

Notification of major changes in placement (excluding changes in levels, e.g. primary to intermediate) shall be mmunicated to the parents in the same manner as an original placement. When a major change in placement is oposed, the parents shall have a right to a review of the proposed program. (R)

When the provision of a special education instructional program or instructional service is to be terminated, the arents of the child shall be informed prior to the termination. The local district and the special education coopera- ve unit shall assist the exceptional child in making a successful transition into the standard program. (R)

The right to a review of the educational placement of an individual child shall be available to the parents or uardians of all children who have exceptional needs, including children for whom the school has recommended pecial education placement, children who have been declared ineligible for special education services, children whose needs have been identified outside the educational system, and children whose parents believe they require pecial education services. (R)

The request for a review of the educational placement of a child shall be made to the superintendent of the school listrict wherein the child resides. The review at the local level shall occur as soon as possible but within 15 calendar lays of the request. (R)

The review shall be in the form of a conference between the parents, their representatives, the special education administrators, the principal authors of the placement decision and appropriate local district personnel.

The superintendent of the child's home district or any designated district administrator other than special educa- tion personnel shall act as chairman of the conference.

The chairman shall give the parties to the review at least five calendar days notice of a conference date. The chair- man shall keep order, receive documents and in general conduct an orderly proceeding. (R)

The review shall seek to establish any or all of the following: that the child has needs which require special educa- tion services; that the evaluation procedures utilized in determining the child's needs have been appropriate in nature and degree; that the diagnostic profile of the child on which the placement decision was based is substantially veri- fied; and that the proposed placement is directly related to the child's educational needs. (R)

Prior to the conference, the parents may request a professional worker of their choice and at their expense (including legal counsel) to meet with the appropriate school personnel to discuss the reasons for the placement. The information on which the placement decision was made shall be made available for examination by the parents or their representatives with the following exceptions: personal observations which in the opinion of the superintendent of the local school district would have no direct bearing on placement shall not be available for examination nor shall they be introduced at the review conference, and test instruments and raw data shall be reviewed only by a professional worker of like discipline. **(R)**

A typewritten record of the conference shall be made by a court reporter who shall be paid by the district. In lieu of a court reporter, a tape recorder followed by a typewritten transcript may be used. The school district representative and the parents must sign the typewritten transcript. **(R)**

At the conference, representatives of the school shall first present their findings and the reason for the proposed placement. This presentation may include verbal reports, the written record of the multidisciplinary conference at which the educational plan was developed, and any other information deemed relevant. The parents and their representatives may question school personnel about the information which has been presented. The rules of evidence shall not apply to the conference. **(R)**

The parents and their representatives may then present appropriate witnesses, reports of tests taken and other facts which they deem relevant. School personnel may subsequently question the information presented by the parents and their representatives. **(R)**

After considering the facts as presented at the conference, the school officials shall recommend to the parents an affirmance of the placement decision, a denial of the decision of placement, or alternative procedures to meet the educational needs of the child, which may include further evaluation. **(R)**

Such decision shall be communicated to the parents or guardian by certified mail within four calendar days of the completion of the conference. The letter shall include the reasons for the decision. **(R)**

The notice of the decision shall also inform the parents of their rights to a review of the placement decision by the office of the superintendent of public instruction. The request for a state-level review must be made in writing to the district superintendent within five school days of the receipt of the local review decision. The school district shall provide the parents with a request form to facilitate this process. By mutual agreement and for good cause, the time to request a state-level review may be extended to 30 calendar days. **(R)**

After receipt of a request for a state-level review, the district shall prepare a transcript of the local review, to include copies of all documents introduced at the conference. Copies of the transcript shall be mailed to the parents and to the legal division of the superintendent of public instruction within seven calendar days of the request for review. **(R)**

A request for a review by the office of the superintendent of public instruction shall stay placement until the review has been determined, unless the parents and any special education personnel mutually agree to continue a placement which has already been effected. **(R)**

Upon the receipt of the request for a state-level review of a special educational placement, the superintendent of public instruction shall designate an impartial reviewing officer who shall be an employee of the Office of the superintendent of public instruction. **(R)**

The reviewing officer shall examine the placement based upon a study of the transcript. He may request further information, either by oral testimony or in writing and whatever technical assistance he deems necessary. **(R)**

The review by the hearing officer shall be held within 10 calendar days of the receipt of the transcript. A report of the review shall be submitted to the superintendent of public instruction, who shall decide the matter within 30 calendar days of the date that the transcript is received. The superintendent of public instruction may dismiss any review he deems lacking in substance. **(R)**

The local school district shall be responsible for implementing the decision of the superintendent of public instruction. **(R)**

The superintendent of schools or another administrator designated by him shall have responsibility for enrolling the deaf child in the program.

The administrator shall base his decision on the eligibility of the child and whether or not the program as described on the application for conditional preapproval can meet the child's needs.

If a deaf child is being considered for dismissal from a special program, the state consultant must be notified in order to facilitate further educational follow-up. **(R)**

ADMINISTRATIVE RESPONSIBILITY

All school based special education facilities are under the supervision and subject to the approval of the superintendent of public instruction. With the advice of the advisory council, he prescribes the standards and makes necessary rules and regulations, including but not limited to, establishment of classes, training requirements of teachers and other personnel, eligibility and admission of pupils, curriculum, class size, housing, transportation, special instructional supplies, and the applications for reimbursement claims. **(Sec. 14-8.01, Ill. Stats.) (L)**

School boards maintaining special education facilities will exercise similar powers and duties as prescribed by law for the establishment, maintenance, and management of other recognized educational facilities. High school districts are financially responsible for the education of handicapped children resident in their districts when such children have reached age 15. However, they may admit handicapped children into special education facilities regardless of whether they have graduated from the eighth grade after they have reached the age of 14½.

The department of children and family services is responsible for administering programs in state facilities for the deaf, blind, and orthopedically handicapped.

There are a number of different types of school organizations in the state, but there are certain characteristics which are held in common by these local districts. Each local district is governed by a school board which possesses only such authority as the state has granted for the operation of the local school system. The local board is directed to use its available resources and its discretionary powers to provide maximum educational opportunities for all of the children and youth of the district. Depending upon the type of organization, individual board members may be either appointed or elected. The school board has authority to act only while it is in session at a legal meeting over all of the affairs of the local district. The individual board member has no legal authority with reference to local schools at any time that the school board is not in legal session. **(R)**

The board of education establishes the policies by which all phases of the educational program and plant will be operated. Established policies should reflect the best thinking of the members of the board as well as the recommendations of the professional educators employed by the board.

Policy making for the board of education involves personnel, curriculum, instructional materials, transportation, cafeterias, cost accounting, expenditures, tax rates and all other operations of the school. The effective board of education establishes such policies in a flexible manner, so the superintendent can administer them without constantly referring matters to the busy board members.

Since the superintendent is employed to act as the board's executive officer, he must recommend policies to the board, and he must execute the policies adopted by the board. The board of education should respect the superintendent's professional training and experience as they relate to his recommendations.

Every school must have a policy manual with policies developed on the basis of the school's philosophy.

The ultimate responsibility for the quality of the local educational program must rest with the citizens who reside within the school district. The understanding support of every citizen is necessary if the schools are to have the professional personnel and physical facilities which are essential to the operation of good schools. It is of importance, too, that the professional personnel employed by the school participate in every appropriate way in developing the policies which affect the educational program of the district, even though the board of education has the final responsibility for the excellence of the program. **(R)**

The local board may secure assistance in carrying out its responsibilities from the superintendent of the educational service region and the superintendent of public instruction and his staff. In addition, much assistance is available from the Illinois Association of School Boards and numerous professional associations and groups. **(R)**

PLANNING

County advisory councils are responsible for planning, beginning at primary level and extending through high school. The planning must provide for specialized supervision, for prevocational and vocational training and counseling, for consideration of services and facilities operated by other state agencies, and for showing relationships to school personnel who are not directly concerned with special education. Planning must also be made to provide programs for the various categories of exceptional children according to state guidelines. **(L)**

At the state level there is a special educational advisory council on education of handicapped children consisting of seven members appointed by the superintendent of public instruction for seven-year terms. The directors of the department of children and family services and the department of mental health are ex-officio members of the council because of those departments' responsibility for residential special education services. The advisory council consults with the superintendent of public instruction regarding all rules and regulations, the functioning of county advisory councils and the approval and rejection of completed comprehensive plans submitted by the county special advisory councils. **(L)**

Within 60 days after receiving plans, the council must consider any regulation or plan proposed by the superintendent of public instruction or any special education advisory committee. The superintendent of public instruction shall select an employee from his office to serve as executive secretary to the council. **(L)**

The superintendent of schools in each county shall appoint a seven-member special education advisory council. The members hold office for four years. Appointees must be selected, as much as possible, on the basis of their knowledge or experience in the education of handicapped children. The county superintendent acts as executive secretary to the advisory council. The council must meet at least four times in each calendar year and is responsible for reporting to the superintendent of public instruction a comprehensive plan providing a "good common school education" for all resident handicapped children. **(L)**

Advisory councils of two or more counties may cooperatively complete their plans when such an approach seems desirable due to "population sparsity, geographic factors, or because of other substantial reasons." The superintendent of public instruction is responsible for providing competent professional consultants to the advisory committees. **(L)**

A review of plans should stress evaluation of categories of handicapped being served, number of operational classes, availability of physical facilities or the planning of such facilities, necessary personnel or efforts of districts to obtain qualified teachers, and progress according to timetables as submitted in original plans. **(R)**

Low incidence categories include blind, partially seeing, deaf, hard of hearing, and multiple handicapping conditions. Many original county plans stated only that low incidence handicapped would be served on a regional basis. For this reason, it is now necessary to examine in detail the progress of services provided for children in these low-incidence categories. **(R)**

Committees should give audience to parents of a handicapped child who have been unsuccessful in obtaining service after having followed the proper channels of contact: the local director of special education, the building principal, the district superintendent, and the county superintendent of schools. Efforts made by county advisory committees to work with parent-child cases involving parent dissatisfaction can be the means for a satisfactory solution of such problems. **(G)**

An annual concise written progress report on implementation of programs will be requested by the special education program development and evaluation division no later than July 1, in order that it may be reviewed by the state advisory council. During the period of implementation of special education programs in local school districts, there will be a need for close communication between the state advisory council on education of handicapped children and county advisory committees. Through the utilization of a two-way system of communication, many potential problems can be averted. **(G)**

BEST COPY AVAILABLE

decision to offer a pupil special education services and when a local hearing

Each school board must keep a detailed and separate account of all monies paid for the maintenance of special education services, reporting these expenditures by June 30th of the school year to the superintendent. An application for pre-approval of expenditures must be submitted to the superintendent of public instruction no more than 30 days after the class or service has started.

These applications are limited to the cost of construction and maintenance of special education facilities designed and utilized to house instructional programs, diagnostic services and other special education services for handicapped children. The application may not include the cost of construction and maintenance of any administrative facility separated from the special education facilities designed and used to house instructional programs, diagnostic services and other special education services for handicapped children. **(Sec. 14-12.01, Ill. Stats.) (L)**

Reimbursement claims for special education shall be made in the following manner: on or before August 1, each district files its report, computed in accordance with the rules of the superintendent of public instruction, with the county superintendent of schools. Data used as the basis for reimbursement claims shall be for the school year ending June 30. After approval by the county superintendent, they will be submitted by August 15 to the superintendent of public instruction. After approval, the state report will be submitted by September 20 to the auditor of public accounts for preparation of the vouchers showing the amounts due the respective counties.

If the superintendent of public instruction finds that he is unable to make a final determination of the accuracy of his claims by September 20, he will direct the auditor of public accounts to place three quarters of the claims by the 30th of September and the remainder by December 1. In this event, the amount of the final payment will be adjusted to reflect any partial disapproval of the claim by the superintendent. If the auditor pays three quarters of the amount and the amount exceeds the amount which the district is legally entitled to receive, the superintendent will notify the district to return the money to the state treasury by December 1. If the money appropriated by the General Assembly is insufficient, it will be apportioned on the basis of the approved claims. If a school board fails to prepare and certify such a report within 10 days after receipt of a delinquency notice sent by the superintendent of public instruction by registered mail, the school district will forfeit its right to be reimbursed by the state for special education services.

Reimbursement will be made in the following manner:

1. For eligible physically handicapped children in hospitals or receiving home instruction, one half of the teacher's salary but not more than $800 annually for each child, or $4,000 per teacher, whichever is less. Children included for reimbursement under this section must receive a minimum of one hour of instruction each school day or a minimum of five hours of instruction in each school week.
2. Four-fifths of the cost of transportation for those physically handicapped, maladjusted, educable and trainable mentally handicapped, speech defective, and multiply handicapped children whom the superintendent of public instruction has determined in advance require special transportation services to take advantage of special education facilities. Transportation costs are limited to expenditures other than depreciation to be computed in accordance with the regulations of the superintendent of public instruction.
3. For all professional workers not mentioned in the rest of this section, the annual sum of $4,000 per person for districts maintaining a fully approved program of special education.
4. An annual sum of $5,000 for one full-time qualified director of special education. Districts participating in a joint agreement special education program do not receive reimbursement for their own directors if reimbursement is made for the director of the joint agreement program. The allocation for determining reimbursement for less than a full time basis and less than a school year will be determined by rules of the superintendent.
5. For each school psychologist, the annual sum of $5,000.
6. For each qualified teacher working in a fully approved program for preschool age deaf or hard of hearing children, the annual sum of $5,000.
7. For readers working with blind or partially seeing children, one-half of their salary but not more than $400 annually per child. Such readers are not required to be certified, but must meet standards of the superintendent prior to their employment.
8. For necessary non-certified employees working in any class or program, one-half of the salary provided or $1500 annually per employee, whichever is less. **(Sec. 14-13.01, Ill. Stats.) (L)**

The allocation for determining reimbursement for less than a full-time basis and less than a school year will be determined by rules of the superintendent.

If a child is attending a non-public school or special education facility, the school district of residence may pay the actual cost of tuition or $2,000 a year, whichever is less. A school district making such tuition payments is eligible for reimbursement from the state for the amount of such payments actually made in excess of $600 per student. The reimbursement will be made in the same manner as reimbursement for public special classes. Transportation to private day schools is reimbursed in the same manner as transportation to the public schools. **(Sec. 14-7.02, Ill. Stats.) (L)**

School districts constructing buildings under joint agreement programs, who have a shortage of necessary funds for the payment of the district's share of the building project, may be granted $1,000 for each professional worker in the district. If, after this, the district is still short of funds, up to 50 percent of the reimbursement made to the district for regular special educational costs in one year may be put toward the completion of the project. **(Sec. 14-3.01, Ill. Stats.) (L)**

The school board of any district with a population of less than 500,000 may, by proper resolution, levy an annual tax not exceeding two percent upon the full fair cash value as equalized or assessed by the department of revenue for not more than five years for special education building purposes, including joint building programs, if there are not sufficient funds available in the building fund of the district to pay the cost of the building. The levying of this tax must be approved by the superintendent of public instruction.

The revenue raised by this tax may be used only for the construction and maintenance of facilities for housing instructional programs, diagnostic services, and other special educational services, but may not be used for the cost of maintenance of administrative facilities from special education facilities described above. **(Sec. 17-2.2, Ill. Stats.) (L)**

Any school district which fails for any given school year to maintain school as required by law, or to maintain a recognized school, shall not be eligible to file for such school year any claim upon the common school fund. A "recognized school" means any public school which meets the standards as established for recognition by the superintendent of public instruction. A school district not having recognition status at the end of a school term shall be entitled to receive state aid payments due upon a legal claim which was filed while it was recognized. **(Sec. 18-8, Ill.**

PLANNING

By July 1971, all school corporations were to have submitted

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Illinois law does not specify any particular administrative structure or size of pupil population base necessary for a comprehensive program of special education; however, it is the professional view of the department of special education, office of the superintendent of public instruction and the state advisory council on education of handicapped children that a pupil population base of less than 15,000 will not provide sufficient numbers of handicapped children to establish comprehensive programs. **(L)**

A special education district may be a local district of 15,000 or more school population containing at least one high school and its underlying elementary districts.

A special education district may be a combination of local districts with the above characteristics who by joint agreement provide for all or nearly all of the special education needs of the member districts.

A joint agreement may be two or more special education districts who jointly provide for one type of handicapped child where prevalence rates are too low to permit comprehensive services within any one special education district. **(L)**

Two or more school boards may enter into joint agreements to provide "needed special educational facilities" and to employ a director and other professional workers "needed to provide programs for handicapped children." Provision of the agreement shall include but not be limited to administration, staff, programs, financing, housing, transportation, an advisory body, and the withdrawal of districts from the joint agreement by submitting petitions to county board of school trustees. This act also provides for the designation of an administrative district to act as the fiscal and legal agent for the districts in the agreement. **(L)**

Each district within a special education district or joint agreement should contribute a proportionate share of the housing.

School districts constructing buildings under joint agreement programs, who have a shortage of necessary funds for the payment of the district's share of the building project, may be granted $1,000 for each professional worker in the district. If after this the district is still short of funds, up to 50% of the reimbursements regularly made to the district for special education costs in one year may be put toward the completion of the project. **(L)**

A School board which is reorganized each year has to contract each year to pay tuition for the education of deaf children because the contract of one board is not binding on another. **(Op. Att'y. Gen., February 11, 1926)**

SERVICES

" 'Special education facilities' includes special schools, special classes, special housing, special instruction, special reader services, braillists and typists for visually handicapped children, transportation, maintenance, instructional materials, therapy, professional consultant services, psychological services, school social worker services, special administrative services, salaries of all required personnel, and other additional educational services required by the child because of his disability, if such services are approved by the superintendent of public instruction and the child is therefore under this article and the regulations of the superintendent of public instructional." **(Sec. 14-1.08, Ill. Stats.) (L)**

A school psychologist is defined as a psychologist graduated with a master's or higher degree in psychology or educational psychology, from an institution of higher learning and whose courses of study and standards of scholarship are approved by the superintendent of public instruction. The school psychologist must have had at least one school year of full-time, supervised experience in the individual psychological evaluation of children approved by the superintendent and must hold a valid four-year permit (from the superintendent and renewable upon application and evidence of acceptable psychological work within the time period designated within the permit)." **(Sec. 14-1.09, Ill. Stats.) (L)**

" 'Professional workers' are defined to mean trained specialists and are limited to speech correctionists, school social workers, school psychologists, psychologist interns, school social worker interns, special administrator interns, registered therapists, professional consultants, special administrator supervisors, giving full time to special education, and teachers of any class or program defined in this article meeting the requirements of this article, having the required special training and the understanding of techniques and special methods of instruction for children, who, because of their handicapping conditions, are placed in special education programs and who work in such special education programs." **(Sec. 14-1.10, Ill. Stats.) (L)**

Special education teachers must hold a valid certificate and have any special training that the superintendent of public instruction requires. All other professional personnel employed in the class, services, or program, must have such a certificate and any special training that the superintendent may require. Persons to assist the teachers with special education services may be hired if they have the necessary training. **(Sec. 14-9.01, Ill. Stats.) (L)**

An educational materials coordinating unit is established in the office of the superintendent of public instruction to provide the necessary staff and resources for the coordination, cataloging, standardizing, production, procurement, storage, and distribution of the educational materials needed by visually handicapped children and adults. The staff and resources of an instructional materials center also includes a file for audio-visual program, and other types of instructional materials which are adapted to the instruction of handicapped pupils.

A major purpose of the unit is the improvement of the instructional program for handicapped children and the in-service training of all professional personnel associated with programs of special education. **(See. 14-11.01, Ill. Stats** **(L)**

Districts maintaining a recognized high school may issue a certificate of graduation to handicapped pupils completing special educational programs approved by the superintendent of public instruction. **(See. 14-6.01, Ill. Stats.) (L**

Programs for deaf children shall have a minimum of six classes at the elementary level in addition to a preschool class.

Programs for deaf children having less than the minimum number of classes, will be approved for reimbursement only if these classes are part of a comprehensive, long range developmental plan which has been approved by the division of special education.

Classes and services for hard-of-hearing children must be separate from those for deaf children. Appropriate classes and services for hard-of-hearing children may be self-contained, resource, or itinerant.

Classes for preschool children shall be for children ages three years, inclusive, and shall have a teacher team of a nursery-kindergarten teacher and a qualified teacher of the deaf. **(R)**

The specialized instruction shall be designed to help the child learn and utilize communication skills in order that he may gain in knowledge and develop environmental competence and personal confidence consistent with his potential.

The school curriculum must be adapted to the special needs of each child, with particular attention to the following: full use of residual hearing; full use of intact sensory avenues, especially visual and tactile; language level and sequential learning; and experiential teaching and field trips. **(R)**

The Instructional Program means those activities which provide the principal elements of the exceptional child's educational development at any given time. These activities may include any or all of the following:

1. Evaluation of the nature of the child's education needs.
2. Amelioration of and compensation for visual, auditory, physical, speech, or other impairments.
3. Development of language concepts and communication skills.
4. Educational experiences which are adjusted in content, emphasis, rate, or location.
5. Modification of social skills or emotional adjustments.

An instructional program is considered as one in which the exceptional child spends 50 percent or more of his school day. **(R)**

Instructional Services are individual or small group instructional activities, either itinerant or resource, which are provided for exceptional children whose educational needs can be adequately met by part-time instruction by a special education teacher. Instructional services shall be considered as those which are provided to the child for less than 50 percent of his school day. **(R)**

Supportive Services are those activities supplemental to the standard or special programs which serve to facilitate the child's educational development. These activities include: evaluation services, specialized instructional services which are in addition to the standard program, enabling services, therapeutic services, and consultation services. **(R)**

Case study means all those activities which contribute to an understanding of the child and his educational difficulties. **(R)**

Special education instructional programs and supportive services shall range along a continuum based on the natur and degree of the intervention. This continuum of program options shall include but not be limited to:

1. Standard program with modification. The child receives his basic educational experience through the standar program. However, these experiences are modified through additional or specialized education of the teacher, consultation to and with the teacher, provision of special equipment and materials, and modification in the instructions program (e.g. multi-age placement, expectations, grading, etc.)
2. Alternate standard program. The child receives his basic educational experiences in a program whose curricula content and educational methodology have been substantially changed. Such changes shall occur when the needs of a proportionately large identifiable segment of the school population warrant it.
3. Standard or alternate standard program with supportive services. The child receives his basic educational experiences through the standard or alternate standard program. However, these experiences are augmented by one or more supportive services.
4. Special Program. The child receives most of his basic educational experiences through an instructional program in a special class which is largely self-contained or in a special school. These experiences are supplemented by inclusion in those parts of the standard program which are appropriate and provision of supportiv services as needed.
5. Cooperative program. The child receives most of his educational experiences through either the standard or the special program of the public school. However, this is supplemented through work-experience programs or shared agency involvement. **(R)**

Special education instructional programs shall be designed in direct response to the educational needs of exceptional children. Specific types of instructional programs may be formulated according to common exceptional characteristics of the students or for students with differing exceptional characteristics but common educational needs. Student-based objectives shall be developed for each type of special education instructional program. The objectives of the program shall have a direct and observable relationship to the objectives which have been established for each child who is placed in that program. **(R)**

A curriculum of educational experiences adaptable to the individual needs, interests or abilities of each child shall be developed for each type of instructional program. This curriculum shall be: sequential, developmental, goal directed, clearly stated and available to the public, and subject to continuing evaluation and revision. **(R)**

In the formation of special education instructional programs, consideration shall be given to the chronological age mental age, physical age, social ability, level of achievement, and social and emotional adjustment of the student.

[illegible] age groupings shall be easily established for [illegible] primary (generally ages six to eight), intermediate (generally ages nine to 11), junior high (generally ages 12 to 14) and secondary (generally ages 15 to 21).

The age range of students within a special program or in any individual instructional grouping shall not exceed four years. **(R)**

Supportive services which shall be provided by the school district are:

1. Individual or small group instructional services, either itinerant or resource, for exceptional children whose educational needs can be adequately met through part-time instruction by a special education teacher. Part-time instruction shall be considered as less than 50 percent of the school day. Such services shall include consultation with the standard program teacher and provision of special materials and equipment. Enrollment in such a service shall be limited to the number of students who can effectively and appropriately receive assistance. The teacher of each instructional service shall actively participate in determining the appropriate enrollment.
2. Speech and language services for all students with speech and/or language impairments which interfere with their educational or social development. Speech and language services may be made available as a supportive service to the standard program, a supportive service to the special program, or a special program.

Speech and language services shall include, but not be limited to, screening and diagnosis of children with speech and/or language impairments, planning and developing the clinical program, therapy for children with impairments of oral language comprehension, production, or usage, including disorders of fluency, phonation, resonance, articulation, oral language formulation and oral language comprehension, parent counseling, referrals and follow-up, and consultative and resource services to other professional personnel.

The number of children seen by a speech and language clinician shall be based on the nature of the speech and language needs of the individual children. At no time shall the case load exceed 80 students.

3. School psychological services to and on behalf of students who require psychological evaluation or assistance in their educational or behavioral adjustment. School psychological services shall include, but not be limited to, screening of school enrollments to identify children who should be referred for individual study, individual psychological examination and interpretation of those findings and recommendations which will lead to meaningful educational experiences for the child, counseling and performing psychological remedial measures as appropriate to the needs of students individually or in groups, participating in parent education and the development of parent understanding, consulting with teachers and other school personnel in relation to behavior management and learning problems, and consulting in program development.

School psychological services shall be made available in an appropriate quantity to all children for whom the school district is responsible.

School psychological services shall be utilized to assist in the process of developing an educational climate conducive to the optimum development of all children. Emphasis shall be placed on prevention as well as rehabilitation, on indirect as well as direct services.

4. School social work services to and on behalf of students whose educational or behavioral development is restricted due to social or emotional considerations, family circumstances or problems of the environment. School social work services shall include, but not be limited to:
    1. Services to school personnel on behalf of children. The school social worker shall provide consultation and inservice training experiences to school personnel.
    2. Identification of children in need of services. The school social worker shall be responsible for providing the social developmental study in a basic evaluation and for participating in the identification of those children who require social work intervention.
    3. Direct services to children.
    4. Service to parents on behalf of children. The school social worker shall be responsible for serving as a liaison between the home and the school and for providing parental education and counseling as appropriate in relation to the child's problem.
    5. Utilization of community resources.

The school social worker shall facilitate the effective utilization of existing community resources to meet the needs of school children and shall assist in developing services when needed but unavailable.

School social work services shall be available in an appropriate quantity to all children for whom the district is responsible.

School social work services shall be utilized to assist in the process of developing an educational climate conducive to the optimum development of all children. Emphasis shall be placed on prevention as well as rehabilitation, on indirect as well as direct services.

Special reader services for children whose educational development can be significantly assisted by the provision of such services. Reader services shall be planned and supervised by appropriate certified personnel.

6. Therapy for exceptional children whose educationally related therapeutic needs have been determined in a multidisciplinary staff conference. Physical and/or occupational therapy shall be provided for exceptional students whose physical impairments require appropriate therapeutic attention if the students are to receive full benefit from the instructional program provided them. Such therapy shall be provided to individual children in accord with the recommendation and prescription of a licensed medical examiner.

Other therapeutic services not specifically mentioned may be approved by the office of the superintendent of public instruction.

7. Consultant services, the nature of which is determined by the needs of exceptional children. Psychiatric consultation, or other professional consultation which provides a therapeutic component shall be provided to those special education instructional programs or instructional services which serve children who exhibit affective or behavioral disorders.

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transfer certificate is issued and payment is made on a per capita cost basis, the per capita cost is computed

Other consultative services shall be provided as required to facilitate the education of exceptional children and as approved by the office of the superintendent of public instruction. **(R)**

Other supportive services may be provided by the local district when it determines that such services would facilitate the educational development of exceptional children. **(R)**

Student-based objectives shall be determined for each special education supportive service. **(R)**

Specific objectives shall be established for each child who receives special education supportive services. **(R)**

Supportive services time spent with or on behalf of the student shall be sufficient to be educationally or therapeutically adequate as determined by the evaluation of the child's needs. **(R)**

The law provides, in some categories, for educational services to children as young as three years of age. Such programs may take the form of:

1. Preschool classes for one category where the number of children is sufficient (e.g. preschool classes for deaf children).
2. Diagnostic classes undifferentiated as to category should be established in areas where not enough children of any one type are resident within a reasonable geographic area. The children would receive special services — self-help skills, social experiences, and a continuous and comprehensive diagnostic study.
3. Visiting teacher may be a nursery school teacher, special teacher, psychologist, social worker, nurse, therapist, or other school personnel depending on the needs of the individual child. **(L)**

Since July 1, 1966, high school districts have been financially responsible for handicapped pupils resident in their districts when such pupils have reached age 15 but may admit such pupils into special education facilities without regard to graduation from the eighth grade after the child has reached the age of 14½. In individual cases, based on a case study, it might be desirable to have a child older than 14½ in elementary facilities. In general, children aged 15 and over are expected to be in high school facilities. **(L)**

Class Size	NUMBER OF PUPILS	
	Minimum	Maximum
LEARNING DISABLED		
Special Class (Extreme discrepancy between ability and achievement)	--	10[1,2]
SPEECH HANDICAPPED		
Speech Therapist (Weekly Caseload)	--	80
AURALLY HANDICAPPED		
Special Class (Hard of Hearing)	--	10-12
DEAF		
Special Class	--	6-8
MULTIPLY HANDICAPPED		
Special Class	--	10
VISUALLY HANDICAPPED		
Special Class (Partially Seeing)	5	14
Itinerant Program (Partially Seeing)	5	14
BLIND		
Special Class or Resource Program	5	10
Itinerant Program	5	14
EDUCABLE MENTALLY HANDICAPPED		
Special Class (Ages 6-9)	8	15[3]
Special Class (Ages 10 and above)	10	15[3]
PHYSICAL HANDICAPPED		
Special Class	6	15
EMOTIONALLY DISTURBED		
School Social Worker ("Maladjusted) (monthly caseload)	--	40[4]
Special Class (Socially Maladjusted)	--	20[3,4]
Special Class (Emotionally Disturbed)	--	8[3]
Itinerant Program ("Maladjusted") (caseload)	--	10[4]
TRAINABLE MENTALLY HANDICAPPED		
Special Class	5	10

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[1] Age range of 4 years or less.

[2] Illinois classifies learning disabled children, along with culturally deprived, socially maladjusted, and emotionally disturbed children under the general heading of "maladjusted".

[3] Age range of 4 years or less.

[4] Illinois classifies learning disabled children, along with culturally deprived, socially maladjusted, and emotionally disturbed children, under the general heading of "maladjusted".

Any child who has been declared eligible for and enrolled in an approved special class or facility for exceptional children may be eligible for special transportation. Any physically handicapped child who can attend a regular class may qualify for special transportation only upon the certification of medical eligibility as determined by a licensed medical examiner. **(L)**

School districts entering into joint agreements to provide special education must provide for transportation as part of the agreement. School districts provide transportation to special private day schools, as well as to their own schools. **(L)**

The state reimburses four-fifths of the cost of transportation for those physically handicapped, maladjusted, educable and trainable mentally handicapped, speech defective, and multiply handicapped children whom the superintendent of public instruction has determined in advance require special transportation services to take advantage of special education facilities. Transportation costs are limited to expenditures other than costs of acquiring equipment, interest, and rental of facilities and will include a reasonable allowance of depreciation to be computed in accordance with the regulations of the superintendent of public instruction. **(L)**

The school district is required to conform to the standards, instructions, and regulations established by the office of the superintendent of public instruction. Special attention should be given to instructing students in safety measures and proper conduct. **(R)**

Whether the special education transportation arrangement involves a private automobile transporting one handicapped child or a school bus transporting many handicapped children, the "Illinois Laws Relating to Motor Vehicles" and regulations of the Office of the Superintendent of Public Instruction as outlined in Circular A-no. 171 Illinois School Bus Transportation governing transportation of all school children shall apply equally. **(R)**

PRIVATE

If, because of his handicap, a child attends a non-public school or special education facility providing appropriate services in compliance with the rules and regulations of the superintendent, the district of residence may pay the actual cost of tuition charge for the child or $2,000 per year, whichever is less, and may provide him with any necessary transportation. However, transportation will not be provided to a residential school. If a child attends a non-public school facility providing a summer school program, the tuition charged the child for the summer school program or $500 per summer, whichever is less, may also be paid by the district with transportation to the school district of residence. A school district making such tuition payments is eligible for reimbursement from the state for all payments made exceeding $100 per student. The district is eligible for reimbursement for summer school tuition from the state in all amounts made in excess of $100 per student. The reimbursement is paid in accordance with Section 14-12.01 for the school year ending June 30. If it otherwise qualifies, a school district is eligible for transportation reimbursement and for reimbursement of tuition payments under this section whether the facility is within or without the state. Nothing in this section allows the reimbursement to a school district for the amount paid for the tuition or transportation unless the district certifies to the superintendent that the special education program of the district is unable to meet the needs of the child because of the child's handicap and the superintendent finds that the school district is in substantial compliance with Section 14-4.01. **(Sec. 14-7.02, Ill. Stats.) (L)**

Physically handicapped, multiply handicapped, maladjusted, educable mentally retarded, trainable mentally retarded, and speech defective children are eligible for placement.

The district must certify that it is unable to meet the needs of the child because of his particular handicap.

If a child exhibits exceptional characteristics which are determined in a multidisciplinary staff conference to be so profound, complex or otherwise unique that no special education program offered by the public schools can adequately or appropriately meet his needs, he shall be referred to either a state-operated or a private facility. **(R)**

The availability of community resources as an extension of the public school education program in no way relieves the local district of its responsibility to provide a comprehensive program of special education. **(R)**

When the district determines that the child cannot be provided with an education in the public schools, appropriate school personnel shall meet with the parents or guardians of the child to determine an alternative educational plan. **(R)**

The district shall be responsible for assisting the parents in locating an appropriate state-operated or private program and for facilitating the referral to that program. An appropriate program is one which will provide the child with special education experiences which are both adequate and appropriate to his needs. **(R)**

When a private facility is utilized the local district shall be responsible for payment of tuition and provision of transportation as provided by law. All such private placements shall be approved by the office of the superintendent of public instruction. Approval of the recommended placement shall be contingent upon the following criteria.

1. The child is enrolled in the public school.
2. The local district special education program is in compliance with Article XIV of the School Code of Illinois.
3. The facility's program is appropriate in relation to the needs of the individual child.
4. The facility is licensed by the state or appropriate agency of the state in which the facility is located.
5. The facility is registered with the office of the superintendent of public instruction and meets the standards established by that office.
6. The facility is within the United States.
7. The facility provides an educational program for at least 176 days per year.

A school district which has been denied approval for the placement of a child in a private facility cannot independently place the child and provide the tuition. **(R)**

All private facility placements shall be reapproved by the office of the superintendent of public instruction on an annual basis. **(R)**

If the recommended private school placement is approved, the local district and the private facility shall enter into an agreement utilizing a format provided by the office of the superintendent of public instruction. The agreement shall provide for, but not be limited to, a description of the educational program to be provided, including the educational objectives to be met and how they are to be met, the tuition cost, periodic progress reports on the child from the private facility to be submitted at least annually, and acceptance that the special education staff of the placing school district may inspect the private facility and confer with the staff at reasonable times. **(R)**

The local school district shall maintain a record of supportive data on each child placed in a private facility. This data shall include: a summary of the child's individual problems, a description of the program required by the child, an explanation of why the child's needs cannot be met by the public school program, a description of the special education program to be offered by the private facility, the request for placement of the child in a private facility as approved by the office of the superintendent of public instruction, copy of the agreement with the facility, conference reports and periodic progress reports submitted by the private facility, and an annual reassessment of the need for continued private placement. **(R)**

When a state-operated day program is utilized, the local district shall provide transportation for the children in this program. Other services may be provided as mutually agreed between the district and the state-operated facility. **(R)**

The local district shall be expected to follow the progress of those children placed in a state-operated or private program. Public school personnel shall confer with private or state facility personnel to evaluate the child's progress and as appropriate facilitate the child's return to the public school program. **(R)**

Placements both in and out of Illinois may be approved. **(R)**

The private facility must offer programs consistent with the public education goals and also must be licensed. **(R)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Standard Elementary School Certificate (Certificate No. 03)

K - 9, bachelor's degree, general education (78), professional education (16), electives (3).

Standard High School Certificate (Certificate No. 09)

6 -12, bachelor's degree, general education (42), professional education (16), electives (5), specialization (32).

Special Education Certificate (Certificate No. 10)

bachelor's degree, valid Illinois Teacher's Certificate, approval of the Division of Special Education of the Office of Superintendent of Public Instruction, plus specific requirements for each area. Certificate based on appropriate training or experience as specified by State Certification board.

NOTE: All standard certificates are issued on the basis of graduation from an approved Illinois program or out-of-state National Council for Accreditation of Teacher Education Institute.

FACILITIES

Two or more school districts combining to form a **joint agreement** district for the provision of special education services may acquire, build, establish, and maintain sites and buildings necessary for the education of one or more types of handicapped children who are residents of the joint agreement area, with the approval of the advisory council on education of handicapped children and the superintendent of public instruction. The title to these sites may be held jointly by the trustees of the township or the county board of school trustees. After filing in writing the document which declares that the building is for the joint use of such districts (according to the terms of the agreement between the districts), such joint agreement district possess the right of eminent domain. See Finance. **(Sec. 10-22.31b, Ill. Stats.) (L)**

Physical facilities shall include classrooms of sufficient size to accommodate special equipment and provide space for proper learning activities at the various class levels.

For preschool programs, a kindergarten-type activity room and a small room suitable for specialized instruction with small groups, and adequate lighting and acoustic treatment, extra electrical outlets, and provision for visual teaching are required. **(R)**

The question was asked whether the Handicapped Act, Chapter III, Ill. Rev. Stat., 1971, Section 11 et. seq., which provides certain standards for the building of public facilities so as to accommodate the handicapped, applied also to the construction of a new high school. The answer is yes. Whether this means that an elevator must be in the new high school is a factual matter which the Attorney General does not answer. **(Op. Att'y. Gen., August 16, 1973)**

Class Size:

NUMBER OF PUPILS

AURALLY HANDICAPPED

Minimum

STATE PROFILE

INDIANA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "It shall be the duty of the General Assembly to encourage by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all." **(Art. VIII, Sec. 1 Ind. Const.) (L)**

Compulsory Attendance Law: Children between the ages of seven and 16 must attend the public schools or other schools taught in the English language open to inspection of local and state attendance officers. Children must attend schools during the entire time the public schools are in session in the school district in which they reside. School superintendents of any district may, with the approval of and under the regulations concerning the procedures and requirements for complete evaluation of children of the state board of education, exclude or excuse from school, children found mentally or physically unfit for school attendance, but children may be excluded only for the present school year. Before any exclusion may be permitted, school officials must provide each child with a due process hearing as specified under the statutes. **(IC 20-8.1-5) (L)**

If a child otherwise subject to the compulsory attendance requirements is unable to attend school because of deafness, partial deafness, blindness, or partial blindness, the person having control or charge of the child must send the child who is between the ages of seven and 18 to the state school for the deaf or the school for the blind during the full school year unless discharged by the board of trustees of either of the schools. **(IC 20-8-8-5) (L)**

If a child who is otherwise subject to the requirements of this chapter is unable to secure a proper education in a regular school due to deafness, partial deafness, blindness or partial blindness, the child's parent shall apply for his admission to the Indiana State School for the Deaf or the Indiana State School for the Blind, whichever is appropriate. Application for admission shall be made in the usual form and passed upon by the board of trustees of the institution to which application is made. **(R)**

A child whose application for admission under this section is accepted shall attend the school which accepted him during its full term. This attendance requirement is mandatory for the period during which the child is not less than seven years of age and not more than 18 years of age or until he is discharged by the board of trustees of the school he attends. **(R)**

A child whose application for admission under this subsection is rejected shall be exempt from the attendance requirements of this chapter unless special classes are available in the regular public schools in his attendance area for individuals with his disability. The exemption from attendance requirements under this chapter shall terminate if the child's application is later accepted by the Indiana State School for the Deaf or the Indiana State School for the Blind. **(R)**

Compulsory school attendance laws apply to all hearing handicapped children. **(IC 15-7-13-8) (L)**

Medical care of handicapped children is the responsibility of the physician chosen by the family or guardian to attend that child. No handicapped child is excused from attending school unless the local health officer, upon a statement from the attending physician, certifies that attendance would be injurious to the child. **(IC 20-1-6-8) (L)**

Responsibilities: School boards of any school corporations may, until July 1, 1973, and shall, thereafter establish and maintain special education facilities for one or more types of handicapped children including the multiple handicapped. School corporations may, but are not required to, establish facilities for handicapped children below the age of six or above age 18. **(IC 20-1-7-1) (L)**

POPULATION

Definitions: "A 'handicapped child' means any child between the ages of three and 21 years, inclusive, who because of physical or mental disability, is incapable of being educated properly and efficiently through normal classroom instruction, but who, with the advantage of a special education program, may be expected to benefit from instruction in surroundings designed to further the educational, social, and/or economic status of the child."

Children in attendance at state schools for the deaf, blind, mentally retarded, mentally ill, and epileptic are not eligible for services under the special education provisions.

Under the rules and regulations of the state commission on general education, multiple handicapped children are eligible for special education services. **(IC 20-1-6-1) (L)**

"Speech refers to the production of sounds or words and is considered defective when it calls attention to itself or interferes with communication and adjustment. Speech difficulties are usually divided into the following groups: (1) articulation; (2) rhythm; and (3) voice. Difficulty in the use and comprehension of linguistic symbols is usually indicative of a language problem and deserves special attention." **(R)**

The deaf are "those in whom the sense of hearing is nonfunctional for the ordinary purposes of life. This general group is made up of two distinct classes based entirely on the time of loss of hearing: (1) the congenitally deaf — those who were born deaf; and (2) the adventitiously deaf — those who were born with normal hearing but in whom the sense of hearing becomes nonfunctional later through illness or accident." The hard of hearing are "those in whom the sense of hearing, although defective, is functional with or without a hearing aid. In many cases, special services will be required in order to accommodate each child's education deficits precipitated by hearing difficulties." **(R)**

"The preschool deaf child shall be defined as a child aged two to five years inclusive, with a hearing loss severe enough to cause disorders of verbal communication. The child shall have reached the age of enrollment before October 1." **(R)**

"A student with neurological impairments learning disabilities exhibits severe specified defects in perceptual, integrative or expressive processes which severely impair learning efficiency. Neurological impairments learning disabilities include conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia and may be manifested in disorders of listening,thinking, talking, reading, writing, spelling, or arithmetic. They do not include learning problems which are due primarily to visual, hearing, or motor handicaps, to mental retardation, emotional disturbance, or to environmental disadvantages. Children enrolled in programs for the neurologically impaired/learning disabled shall be those who are chronic failures in the regular classroom setting and are seriously deficient in educational skills. Reimbursement of enrollment in such programs shall be limited to a maximum of 1% of the total enrollment of any school corporation."

"Communication disorders may include any of the following:

A. Articulation: This group includes all the speech deviations based primarily on incorrect production of speech sounds and may result from organic conditions or be non-organic, substitutes one sound for another in words, and/or distorts speech sounds within a word, exhibits an articulation problem.

B. Fluency: This group includes the speech deviations commonly referred to as stuttering and those which involve an abnormal rate of speech.

C. Voice: This group of disorders is made up of three major types having to do primarily with the sound of the voice: pitch, loudness, and quality.

D. Language: A child who experiences difficulties in the use and/or comprehension of linguistic symbols may require the services of the speech and language clinician." **(R)**

Age of Eligibility: Services are mandatory for exceptional children between the ages of six and 18 and permissive for those from three to six and 18 to 21. Special programs may be approved for deaf children beginning at six months of age. **(IC 20-1-6-1)(L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: All physicians, superintendents of hospitals, directors of local health and welfare departments, the state director of rehabilitation, superintendents of the state institutions serving the handicapped, or superintendents of school corporations that diagnose, treat, or provide care for handicapped persons must report the condition of all persons under their care to the state department of health within 60 days of beginning care. 'Handicapped individuals' shall mean all individuals who by reason of physical, mental, or emotional defects or infirmity, whether cogenital or acquired by accident, injury, or disease, are or may hereafter be totally or partially prevented from achieving the fullest attainable physical, social, economic, mental or vocational participation in the normal process of living."

The reports will be solely for the use of the state government to fulfill its legal obligations and organizations having a legitimate interest in the information. Reports will not be open to public inspection or in any way be considered a public record. Reports from hospitals shall include birth defects. Reports of school corporations must include children excluded from school because of their disabilities as well as handicapped children attending regular or special education programs.

All reports will be forwarded to the state commission for the handicapped. The commission is responsible for tabulating and analyzing the reports and providing information to state departments and organizations having legitimate interest in such information. **(IC 16-4-6-1 to 16-4-6-4)(L)**

Boards of school commissioners and school boards of all cities and towns and township trustees of each township must annually report, under joint regulations of the state board of education and the board of state charities, the number of problem children and children three years retarded in mental development who attend the public schools or who are of school age and reside within the jurisdiction. **(IC 20-10-27-1) (L)**

Screening: In attempting to identify children with a speech handicap, it is suggested that the clinician conducting the screening program attempt to screen each and every child in the school system. Only in this way will total identification of students with speech and language problems be assured.

Assessment and Placement: A speech evaluation by a speech and hearing therapist certified in Indiana is required.

All children who have symptoms of acoustic, voice and aphasic disorders, cerebral palsy or cleft palate shall also have an evaluation by a physician. A physician's statement shall be on file with the school corporation describing the medical need of these children and the consequent limitations to be imposed upon their training. **(R)**

Caseload for each speech and hearing therapist shall not exceed 100 pupils per therapist. Therapy groups shall consist of one to five pupils in number. Each child shall receive at least two 20 minute periods of therapy per week. **(R)**

The board of school trustees and the board of school commissioners of every city or town and the trustees of any township must annually administer audiometric tests or a similar test with accepted scientific instruments or devices to determine the hearing efficiency of school children in grades one, four, seven, and ten, all children transferred from other school districts, and all children suspected of having hearing defects. School corporations may hire necessary technicians to conduct the testing. Records of all tests will be continuously maintained to assist in diagnosing and treating any auditory abnormality.

Diagnosis and treatment is made on the recommendation of an explanation by a "practitioner of the healing arts with a limited license to practice." If the hearing of any child is impaired to the extent that he cannot be taught in the regular classes of the corporation, the trustees and/or commissioners should pro-

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vide any necessary remedial measures, corrective devices, approved mechanical auditory devices, and prescribe courses in lip reading by approved instructors. The superintendent of public instruction and the director of vocational rehabilitation should cooperate with the local school corporations in providing hearing aids. All instructors in lip reading must be approved by the two departments. Training courses for teachers of the hard of hearing will be prescribed by the proper authorities in all state teachers colleges. **(CH. 53, Acts of 1953) (L)**

An evaluation by a physician and a clinical audiologist and an otologist is required for hard of hearing children. A psychological evaluation and an evaluation of learning capabilities is required.

Class size shall be determined by the director of special education or other school administrator if there is no director.

Referrals to the program must be made by (1) school administrators: (a) superintendent of public school corporations, (b) directors of special education, (c) superintendent of the Indiana School for the Deaf; (2) physicians; (3) parents; (4) regional consultants to the division of special education; (5) university and college speech and hearing clinics; and (6) rehabilitation centers.

All referrals should be directed to the administrators of special education in the school corporation housing the program.

The administrators of special education will compile a list of the applicants and schedule parent conferences for a time when the project director, project advisor, and the administrator can interview the applicant and both parents. **(R)**

Evaluation must consist of (1) a general medical examination; (2) a psychological evaluation the psychological examiner may use any of a number of suitable instruments such as the following: (a) Leiter International; (b) Merrill-Palmer Scale of Mental Tests; (c) Wechsler Preschool and Primary scale of Intelligence (1967); (d) Goodenough Draw-A- Man Test;(e) Dr. Alathena Smith's Test for Preschool Deaf Children; and(f) Vineland Social Maturity Scale; (3) an audiological evaluation university centers and/or speech and hearing centers having audiologists who are certified with the American Speech and Hearing Association will do the initial diagnostic evaluation; (4) otological evaluation this evaluation must be administered by an otologist who is certified by the Board of the American Academy of Opthalmology and Otolaryngology. **(R)**

The proper placement of the hearing impaired pupil is the responsibility of the local school administrators. The director of special education shall take primary responsibility for coordinating results of necessary evaluations in such a manner as to aid the case conference committee in making the proper recommendations.

When assistance in placement is necessary, the division of special education will provide a consultation team. Determination of appropriate placement in a special education program for the hearing impaired shall be made upon the basis of a written report. Determination of appropriate placement shall be made by a case conference committee which will consider the results of the examinations, as well as other school information. A written report shall be made to include recommendations regarding eligibility of the child for a special education program and the most appropriate type of program.

A case review of each student shall be made each year by a case conference committee. The committee shall determine what, if any, additional data are required in order to assess the student's current and continuing needs. The committee shall prepare a report recommending one of the following:

a. Retention in the program.
b. Transfer to a different level of special education programming.
c. Transfer to a regular school program.
d. Transfer to an appropriate public or private resource.

Approval may be given for the provision of early education programs for hearing impaired children between the ages of six months and five years upon receipt of a documented program description by the division of special education.

Determination of appropriate placement in a program of communication disorders shall be determined on the basis of an evaluation by a speech, hearing, and/or language clinician certificated in the State of Indiana and the appropriate medical information, educational information and learning capability evaluation. All students who have symptoms of acoustic, voice, neurological, and/or physiological conditions which may be related to the communication disorder shall have an evaluation by a physician. A physician's statement shall be on file with the school corporation describing the medical need of these students and the consequent limitations to be imposed upon their training. After the decision has been made to place a pupil in speech, hearing, and/or language therapy, the parent or legal guardian of the pupil involved in that decision may appeal the decision.

Class placement shall be made after an interview with the applicant and both parents.

This program may also lend itself to the needs of the multiply handicapped deaf child. In school corporations where these children are identified, they may be placed on a probationary basis. An evaluation will be made on the child at the end of the probationary period. If it is ascertained that" . . . classes for the deaf are seriously impeded by the inclusion of multiply handicapped children or where the instruction is insufficiently specialized to meet the needs of the multiply handicapped child, specialized classes should be provided." In situations such as this, it is hoped this or some other program will generate appropriate classes for the multiply handicapped deaf. All admissions to the program will be on a probationary basis. Placement shall be made according to the child's need and the availability of space in the class. **(R)**

Establishment of pupil eligibility for services in a special education program for students with neurological impairments/learning disabilities shall be made upon the basis of a written report of an individual evaluation which shall be performed by a physician with an unlimited license to practice medicine and who is trained in the specialty of neurology, pediatrics, internal medicine or psychiatry.

Determination of appropriate placement in a special education program for students with a neurological impairment learning disability shall be made by a case conference committee which will consider the results of a psychological evaluation as well as other school and health information. A written report shall be made by this committee which includes recommendations regarding eligibility of the pupil for a special education program and admission of the pupil to the most appropriate program.

The case conference committee shall be responsible for the determination of whether additional medical evaluation of a psycho-neurological nature is needed prior to making a decision on eligibility of the pupil and a recommendation as to the most appropriate of the types of programs described in Part F 4-7 of this section.

The director of special education shall take primary responsibility for coordinating results of necessary evaluations in such a manner as to aid the case conference committee in making proper recommendations.

A case review of each student shall be made each year by a case conference committee. The committee shall determine what, if any, additional data are required in order to assess the student's current and continuing needs. The committee shall prepare a report recommending one of the following:

a. Retention in the program.
b. Transfer to a different level of special education programming.
c. Transfer to a regular school program.
d. Transfer to an appropriate public or private resource.

Special consultation programs may be established to serve neurologically impaired learning disabled students whose special needs may be met by remaining in regular classrooms when special consultation is provided their teachers and supervisors. Such consultation is related to the development and utilization of special, individualized sequences of instruction, behavioral management, speech and language development, crisis counseling and guidance.

A prevalence rate study is part of the identification process. Its purpose is to provide an estimate of the number of school-aged handicapped children by category a school district might be able to participate in relation to the total school population. Such estimates are derived from percentage rate for each exceptionality area in order to obtain an estimate of prevalence. These figures may be compared with the results of identification procedures as described later.

A key person in each school or a survey team should be given the responsibility of reviewing cumulative records in each school district in order to identify children who may need special education. This is judged on the basis of achievement scores; IQ test results, anecdotal records indicating behavior difficulties, school exclusion or poor attendance; records of screening test results; and similar items. Standardized tests have been developed to aid the assessment of most areas of functioning. Some of the categories for which specific tests have been developed are: (1) readiness development; (2) achievement-performance; (3) mental abilities; (4) perceptual-motor development; and (5) personal-social adjustment. **(R)**

The proper placement of the child is the responsibility of the school superintendent. The director of special education and all special examiners (medical, psychological, etc.) shall interpret results of evaluations in such a manner as to aid in making the proper placement. **(R)**

After determination of proper educational program for a student is made by the school superintendent with proper advice from specialists and consultants of the school staff, written permission of the parent or guardian must be obtained before the child is officially assigned to a special education class.

No child shall be excluded from or transferred out of a regular public school assignment unless such child is provided (a) free and adequate alternative educational service suited to the child's needs and (b) written notice, an opportunity for a constitutionally adequate prior hearing and periodic review of the child's status and the adequacy of any educational alternative.

The superintendent or his designee of the school attended by the child shall convoke a case conference committee to consider the appropriate educational placement for that child. The case conference committee shall be composed of appropriate school administrators, specialists, special education teachers, and or regular education teachers who may have knowledge of the child and the parents of the child being considered for special education programs, unless the parents choose not to participate.

The case conference committee coordinator shall make arrangements for:

a. the assembly of all relevant data and reports concerning the child and,

b. the administration of further tests and evaluations to aid in assessing the educational needs of the child. Provided that:

No pupil shall be compelled to submit to medical examination whose parent objects, in writing, to such examination.

Within sixty (60) days of the initial request or recommendation, the full committee must meet, having been provided with all relevant reports and data prior to said meeting, and recommend an educational program for the child. A report embodying that recommendation and the reasons therefore shall be prepared by the coordinator and shall be forwarded to the local school superintendent or his designee within twenty (20) days of the case conference meeting. The superintendent shall provide for the special educational needs of the child by way of an educational placement as close to the norm as possible.

The superintendent shall prepare a report which includes both the placement proposed and a statement of reasons therefor, a copy of which shall be sent to the child's parents. Accompanying said report to the child's parents there shall be a notice of the right to a hearing before a Hearing Officer if there is an objection to the placement.

Whenever the superintendent proposes to take action regarding a child's special education placement, denial of placement, or transfer, the child's parent or guardian shall be informed by written notice of said proposal. If the parent or guardian opposes the proposal, he shall make a written demand for a hearing. Such hearing must be conducted within twenty to forty-five (20-45) days after the demand. Pending the outcome of the hearing, the child must be provided with interim educational services. In carrying out the above, the following procedures shall be followed:

1. If the child is not currently provided with a free educational program, he shall be provided with the program deemed suitable by the local school system staff pending a decision by the hearing officer pursuant to this procedure. If the child is already being provided with a free educational program, changes to which the parents or guardians object shall not be made pending the hearing decision.
2. Notice required hereinbefore shall be given in writing by registered mail to the parent or guardian of the child.
3. Such notice shall:
    a. describe the proposed action in detail;
    b. clearly state the specific and complete reasons for the proposed action, including the specification of any tests or reports upon which such proposed action is based;
    c. describe any alternative educational opportunities available on a permanent or temporary basis;
    d. inform the parent or guardian of the right to object to the proposed action at a hearing before an independent Hearing Officer, and of the manner in which to request such a hearing;
    e. inform the parent or guardian that the child may be tested for an independent medical, psychological and educational evaluation and specify the name, address and telephone number of an appropriate local diagnostic center;
    f. inform the parent or guardian of any organizations providing assistance with respect to placement questions;
    g. inform the parent or guardian of the right to be represented at the hearing by legal counsel; to examine and copy the child's school records at any time during regular office hours, including any tests or reports upon which the proposed action may be based; to present evidence, including expert medical, psychological and educational testimony; and, to confront and crossexamine any school official, employee, or agent of the school district or public department who may have evidence upon which the proposed action is based.
4. The hearing shall be at a time and place reasonably convenient to such parent or guardian, and shall be scheduled not sooner than twenty (20) days nor later than forty-five (45) days after the receipt of a request from the parent or guardian.
5. The hearing shall be closed to the public unless the parent or guardian requests an open hearing.
6. The child and his parent or guardian are guaranteed the right to a lawyer or other representative of their own choosing. If they are unable, through financial inability, to retain counsel, the superintendent shall advise the child's parent or guardian of available voluntary legal assistance.
7. The decision of the Hearing Officer shall be based solely upon the evidence presented at the hearing.
8. The local school corporation shall bear the burden of proof as to all facts and as to the appropriateness of any placement, denial of placement or transfer.
9. A tape recording or other verbatim record of the hearing shall be made, and upon request shall be transcribed and made available to the parent or guardian or his representative.
10. At a reasonable time prior to the hearing (and at any other time during regular business hours), the parent or guardian, or his counsel, shall be given access to all records of the public school system and any of its agents or employees pertaining to the child, including any tests or reports upon which the proposed action may be based.
11. The independent Hearing Officer shall be designated by the State Superintendent of Public Instruction and shall not be an officer, employee or agent of the local school system or the local board of education.
12. Costs pertaining to the hearing officer shall be paid by the local school corporation.
13. The parent or guardian, or his representative, shall have the right to compel the attendance of, to confront, and to cross-examine any witness testifying for the public school system or any public employee who may have evidence upon which the proposed action may be based.
14. The parent or guardian, or his representative, shall have the right to present evidence and testimony, including expert medical, psychological or educational testimony.
15. Within thirty (30) days after the hearing, the Hearing Officer shall render a decision in writing. Such decision shall include findings of fact and conclusions of law and shall be sent by registered mail to the parent or guardian and his counsel.
16. Appeals of any kind in reference to Rule S-1 may be made to the state board for special education appeals after procedures set out in this document are followed.

Application by the receiving corporation for the approval of transfer pupils from one corporation to the special classes in another corporation shall be submitted to the commission on general education or its approved agency before the cost of such transfer may be included in the claim for reimbursement. Only the amount in excess of a regular transfer can be claimed for reimbursement. Corporations accepting transfer pupils shall charge the transferring corporation the portion of excess cost not paid by the state, in addition to regular transfer costs. **(R)**

All required physical and/or psychological evaluations of a child shall be made at least every three years. Reports shall be made easily accessible to the special teacher, therapist and/or clinician involved. Pupils are to be assigned to special classes and programs designed and equipped to cope with the major handicapping conditions. **(R)**

Appeals of any kind in reference to Rule S-1 may be made to a state board for special education appeals, the members of which shall be designated by the governor. Appeals to the board may be made after procedures as set out in this document are followed.

In all cases where physical, mental, or emotional problems are cited as primarily or significantly contributing in a decision to offer a pupil special education services and when a local hearing has been held, and in which the parent so wishes, the parent may furnish or may ask the state superintendent of public instruction to furnish a duly licensed school psychologist, psychiatrist or medical doctor who shall examine the pupil and make recommendations to the state board for special education appeals.

Expenses incurred through requests to the state superintendent for medical and psychological services shall be borne by the local school system from which the appeal to the state board for special education appeals originates.

ADMINISTRATIVE RESPONSIBILITY

The commission on general education shall adopt and establish the rules and regulations necessary for the administration of the special education program **(IC 20-1-6-3) (L)**

A division of special education is established under the state board of education. The director of the division will be appointed by the governor. The director is responsible for:

1. General supervision of all classes and schools for handicapped children and coordinating the work of these schools;
2. Formulating, with the approval of the state board of education, rules and regulations governing the curriculum and instruction including the licensing of personnel in the field of education;
3. Inspecting and rating of all schools or classes for handicapped children in regard to property, personnel, buildings, equipment, and supplies, and
4. Appointing necessary personnel needed to administer the special education services **(IC 20-1-6-2) (L)**

A director of special education has responsibilities as the superintendent may direct. A school corporation, or two or more school corporations operating under a joint agreement program, which employs five to nine full-time, special education teachers (not including home teachers), therapists, and/or clinicians in two or more areas of special education, approved by the Division of Special Education is eligible for reimbursement for a half-time director of special education. A school corporation, or two or more school corporations operating under a joint agreement program, which employs ten or more full-time special education teachers, therapists, and/or clinicians approved by the Division of Special Education is eligible for reimbursement for a full-time director of special education.

A school corporation, or two or more school corporations operating under a joint agreement program, which employs less than five full-time special education teachers, therapists, and/or clinicians is eligible for a half-time director for one year provided that the school corporation furnishes evidence that by the next year the school corporation will employ a total of five or more full-time teachers, therapists, and/or clinicians in two or more special education areas.

A supervisor, working under a director of special education, has supervisory responsibilities for an area of exceptionality in a total program of special education and his role includes duties and responsibilities pertinent to this area as assigned by the director. A school corporation, or two or more school corporations operating under a joint agreement program, which has a certified director of special education and which employs five to nine approved full-time special education teachers (not including home teachers), therapists, and/or clinicians in any one area of exceptionality is eligible for a half-time supervisor in that one area. A school corporation, or two or more school corporations operating under a joint agreement, which has a certified director of special education and which employs ten or more approved full-time special class teachers or therapists and/or clinicians in any one area of exceptionality is eligible for a full-time supervisor of special education in that area. Such full or part-time supervisor must have had a minimum of three years of teaching experience in the area of supervision and be professionally certificated in that area of education.

Future approval of supervisors will depend upon their meeting state certification patterns as promulgated by the Commission on Teacher Education and Certification.

Schools or classes for handicapped children operated by the school corporations must adhere to the laws relating to the operation of the public schools and are under the supervision of the division of special education. **(IC 20-1-6-3) (L)**

The educational program of the state school for the deaf must adhere to the standards established by the department of public instruction for the public school classes, but the immediate supervision of schools is under the direction of the superintendent of the school, who is appointed by the state health commissioner. Subject to the approval of the state health commissioner, the superintendent of the school has complete charge and management of the school and is charged with the direction of the education of all students in attendance as well as the evaluation and improvement of the school staff and educational program. **(IC 16-7-13-2to 16-7-13-4) (L)**

The state board of education is designated as the authority to accept any federal funds appropriated for the purpose of aiding in the education of handicapped children. **(IC 20-1-6-4) (L)**

FINANCE

PLANNING

By July 1971, all school corporations were to have submitted to the state superintendent a comprehensive plan delineating how all resident handicapped children are to receive special educational services. School districts were allowed to cooperatively draw up a plan for a joint school service program to meet the needs of all handicapped children within their jurisdiction. This approach was to be used because of population sparsity, geographic factors, or other substantial reasons which made it desirable. When formulating plans, school districts were to consider programs operated by the state board of health and department of mental health. Professional consultant assistance to local school corporations was available from the superintendent of public instruction. **(L)**

In order to carry out the comprehensive plan development requirements, the state advisory council for special education has recommended that local planning committees be formulated and be given the responsibility of preparing the comprehensive plan. Members should be selected in order that a truly representative group may have a part in plan development. There is no minimum or maximum number of requirements for membership of the committee.

Procedural steps in comprehensive plan preparation are:

1. School superintendent(s) appoints local planning committee(s)
2. Committee prepares background information
    a. Estimate number of children by category or exceptionality
    b. Survey existing special education facilities and services in school, community, and region
    c. Study school, community, and pupil data records
3. Committee prepares plan draft
    a. Collect additional data on children, facilities, and services
    b. Determine professional and para-professional personnel needs and facility needs
    c. Consider alternatives in programming to meet needs
    d. Circulate tentative plan to all school corporations participating in a joint school services plan
4. Committee submits preliminary plan to state advisory council
5. State advisory council returns preliminary plan with suggestions
6. Committee completes final plan
    a. Obtain approval of local school board (or) boards
    b. Submit plan to state advisory council

At the initial meeting of the planning committee, the regional consultant should be present to provide general and technical information pertaining to the administrative and financial structure of existing joint service programs in the state. The consultant will also have available data relative to the approximate numbers of children in each exceptionality area from each of the possible participating school corporations.

Following the initial meeting, the committee should be concerned with determining the scope of the proposed program.

Once the scope of the program is determined, the probable participating school corporations must select an administering school corporation.

Once the administering school corporation has been selected, the members should draw up a joint agreement of which they, as a group, unanimously approve. The joint agreement must then be approved by the school boards of each of the participating school corporations. **(R)**

A state advisory council appointed by the superintendent assists the department of public instruction in developing a statewide plan for free public school education for handicapped children. Because of the responsibilities of the state departments of health and mental health for residential special education programs, the commissioner of health or his designate and the commissioner of the department of mental health or his designate are ex-officio members of the council. Members are selected on the basis of their knowledge of, or experience in, problems of educating handicapped children. Further responsibilities of the state advisory council include advising the superintendent and the commission on general education regarding all rules and regulations, recommending approval or rejection of completed comprehensive plans of the school corporations, and recommending to the superintendent and the commission on general education a comprehensive plan meeting the needs of handicapped children. In the event any school district did not complete its plan by July 1971, a plan developed by the state council was to have been disseminated to all school corporations affected by the plan. This plan is to be considered advisory only. Any plans proposed by school districts must be considered by the council within 60 days after their receipt. The director of special education acts as executive secretary to the council and furnishes any professional and necessary clerical assistance. **(L)**

In joint service programs, the advisory committee is comprised of at least one representative appointed by the governing board of each participating school corporation and the director of special education, if and when employed, (who will usually serve as executive secretary). Representatives are appointed by their respective governing boards. The superintendent is usually appointed by the governing board to serve as the corporation's representative on said advisory committee.

This advisory committee's role is to establish policy in broad areas relating to the joint service program, within responsibility areas as delegated by the participating governing boards, and to keep their respective school boards informed of on-going joint service programs. All major planning, such as yearly plans for program expansion, is approved by the advisory committee prior to approval by the school boards of each of the participating corporations. Following the employment of a director, the advisory committee will offer their cooperation and assistance to said director. The development of major program policies, which influence the direction, growth, and development of the joint service program will be presented to the advisory committee for approval, prior to implementation.

The number of meetings the advisory committee schedules per year will vary, depending upon existing need. However, four meetings per school year is considered a minimal number necessary to conduct routine responsibilities. Special meetings may be called to handle crucial situations. It is recommended that the representative of the administering school corporation chair this meeting. The chairman and/or director of special education should have the authority to call a meeting of the committee at any time, providing a notice of the proposed meeting is delivered to the members sufficiently in advance. **(R)**

FINANCE

Any school corporation maintaining a school will pay the operating expenses for each pupil attending the school and is entitled to receive state special education reimbursement. Any school corporation operating schools or classes shall send, upon the request of the division of special education, to the office of the state superintendent a certified statement of the average cost per pupil for maintaining such education, excluding pupils attending the school and residing in other corporations, and the average cost of education per pupil for normal children based upon average daily attendance (ADA). The average cost for normal children will include state aid, if any.

Reimbursement to school corporations by the state is subject to any standards, requirements, rules and regulations of the commission on general education. Before any type of special class is organized, approval must be obtained from the commission on general education. **(IC 20-1-6-3) (L)**

All claims approved by the state will be paid out of the common school revenue fund. An amount sufficient to cover all the claims is reserved by the state superintendent when making the semi-annual apportionment. Claims will be paid in the same manner as common school revenue funds are paid. If there is insufficient money in the common school revenue fund to pay all the claims, the claims will be paid out of the excise fund allocated to the public schools. A sufficient amount to pay off claims from the excise fund shall be reserved by the state superintendent. State reimbursement may not exceed 80 percent of the claims for approved special education programs. **(IC 20-1-6-3) (L)**

The commission on general education must certify the amount spent for handicapped children to the auditor of the state who will reimburse the corporations 70 percent of the salary of speech and hearing therapist and occupational therapists; 50 percent of the cost for psychological services special education administration and salaries of paraprofessional personnel, and 80 percent of the approved cost of home teaching, school-to-home telephone, and transportation from appropriated funds.

For the support of approved special education classes, the commission on general education will provide for a weighted average daily attendance assignment for each pupil in special education classes to be used for computing the minimum foundation funds when funds are available.

If the state receives funds from the U. S. government to aid in the operation of any school for handicapped children, the division for special education may adjust the above to conform to and take into consideration the federal grant. **(IC 20-1-6-3) (L)**

Schools wishing to claim special education reimbursement for work-oriented programs must do the following:

1. Before final approval may be granted by the division of special education, the applicant must submit a description of the proposed curriculum to the Indiana Department of Public Instruction. The proposed curriculum shall include, in addition to an indication of the sequential pattern of course offerings, descriptive evidence that the instruction has been appropriately designed to meet the objectives of a work-oriented program.
2. Application for reimbursement for the approved special education personnel employed for the work-oriented program and special transportation must be made on the appropriate form 23. Those schools not having a certified Director of Special Education shall make application on Form 23-M for instruction and Form 23-TR for special transportation by October 15. Directors of Special Education must submit their applications on Form 23-I by November 1. Final claims for reimbursement of approved costs in the program may be included on the "Report of Special Classes" (Form 24, which must be submitted by June 15. **(R)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Two or more participating corporations may provide for a special education school (". . . a department, school or school corporation established, maintained, and supervised for the education of handicapped children in accordance with this section.") by adopting an agreement with the following provisions: (1) plan for the organization, administration and support of the school, (2) a date for the establishment of the school at the beginning of the school year, and (3) the extension of the special education school for a minimum period of five years, a provision that the school will extend from school year to school year unless canceled by the governing bodies of a majority of the participating school corporations at least one year prior to termination of the agreement. **(L)**

The agreement is an identical resolution adopted by the governing bodies of all participating school corporations. During the term of the agreement, it may be modified by unanimous vote of all the participating school corporations. **(L)**

The agreement may provide for the acquisition of sites, buildings, and equipment by purchase or by lease, from any of the participating school corporations for the term of the agreement or by lease. **(L)**

The following resources are available to provide assistance in the development of a comprehensive plan to serve exceptional children:

a. The office of state superintendent of public instruction, division of special education.
b. Directors of joint service special education programs.
c. University special education staffs, particularly those offering special education administration training programs. Currently, Ball State, Indiana State and Indiana University have state-approved training programs for such personnel. **(R)**

With the director of special education providing the leadership, (as determined by mutual agreement of the participating school corporations), the role and function of the administering school corporation involves serving as administrative agent for all schools participating in the joint service project. Such responsibilities are identical to those services that the administering school corporation provides in its own corporate boundaries. However, as a servicing agent within the joint schools service project, the administering school is responsible to all other participating schools. The role of the administering school corporation consists of providing the following services

a. budgeting and accounting
b. purchasing
c. reporting
d. general supervision
e. interviewing and selecting personnel
f. assuming contractual obligations, including tenure rights
g. fulfilling moral, ethical, and administrative responsibilities to all participating schools
h. placing teachers and pupils in appropriate class situations and locations
i. distributing state reimbursement to the participating schools. **(R)**

If township schools are involved in a cooperative, the office of the county superintendent must be the administering agent [illegible] according to existing law, township schools may not participate in a joint school program administ[illegible] a school corporation. **(R)**

The joint program agreement must be in writing and approved by each of the participating school corporation school boards. Proposed amendments must be approved by each of the participating school corporations. **(R)**

The joint agreement lists the names and addresses of each school corporation. **(R)**

The agreement describes the method of organizing, administration, support and funding. **(R)**

The agreement specifies the conditions under which a corporation may withdraw or enter into the program and the conditions under which other corporations may be added. **(R)**

The financial plan generally covers such items as:

1. The corporation designated as the administering school corporation.
2. How each corporation's proportionate share of costs for said program will be determined.
3. When and how the administering school corporation will receive from each participating school corporation its proportionate share of the cost of the program.
4. How and when state reimbursement will be distributed to the participating schools.
5. How personnel will be employed and how purchases will be made. **(R)**

The joint agreement describes the administrative plan and role of the advisory committee which is composed of at least one representative from each participating school corporation's governing boards. **(R)**

The agreement must be signed by the president of the board of each of the participating school corporations. **(R)**

The advisory committee is comprised of at least one representative appointed by the governing board of each participating school corporation and the director of special education, if and when employed, (who will usually serve as executive secretary). Representatives are appointed by their respective governing boards. The superintendent is usually appointed by the governing board to serve as the corporation's representative on said advisory committee. **(R)**

The role of the advisory committee is to establish policy in broad areas relating to the joint service program, within responsibility areas as delegated by the participating Governing Boards, and to keep their respective school boards informed of on-going joint service programs. All major planning, such as yearly plans for program expansion, is approved by the advisory committee prior to approval by the school boards of each of the participating corporations. Following the employment of a director, the advisory committee will offer their co-operation and assistance to said director. The development of major program policies, which influence the direction, growth, and development of the joint service program will be presented to the advisory committee for approval, prior to implementation. **(R)**

The number of meetings the advisory committee schedules per year will vary, depending upon existing need. However, four meetings per school year is considered a minimal number necessary to conduct routine responsibilities. Special meetings may be called to handle crucial situations. It is recommended that the representative of the administering school corporation chair this meeting. The chairman and/or director of special education should have the authority to call a meeting of the committee at any time, providing a notice of the proposed meeting is delivered to the members sufficiently in advance. **(R)**

The director of a cooperative is responsible to the superintendent of the administering school corporation and the advisory committee. If a decision must be made which affects all school corporations involved in the joint service program, the issue should be presented to the advisory committee for consideration. However, in the final analysis, there must be someone who will ultimately take final administrative responsibility for the program, and in a joint cooperative in special education, this person is the superintendent of the administering school corporation. When confronted with an issue or consideration that will affect only one specific school corporation in the cooperative, the director of special education should confer directly with the superintendent of the school corporations that are affected. **(R)**

In determining the need for employing a supervisor/consultant consideration should be given to: (1) the number of teachers and therapists who service the program and (2) the amount of administrative responsibility delegated to the director affecting his adequate function as a supervisor. A supervisor/consultant may be employed on a part-time basis and could be a teacher who has been given released time for this purpose. **(R)**

Eligibility requirements, in addition to state rules and regulations, can be developed at the discretion of the director and advisory committee serving the specific cooperative program in question. **(R)**

If a child, residing in a school district and attending a class or school in another school corporation because of his handicap or multiple handicaps, his district of residence grants the proper transfer certificate to provide necessary transportation, according to rules of the commission on general education. The child's district of residence also pays the per capita cost of educating the child to the other school corporation. **(L)**

If the school corporation is involved in the joint school service and supply program, tuition and transportation payments will adhere to the written agreement of the participating school corporations. If the transfer certificate is issued and payment is made on a per capita cost basis, the per capita cost is computed in the following manner: the cost of maintaining any special education facility for the current school year is first determined and includes the following expenses applicable only to this educational facility

1. Salaries of teachers, professional workers, necessary non-certified workers, clerks, librarians, custodial employees, readers, and any district taxes specifically for pension and retirement benefits;
2. Educational supplies and equipment, including textbooks. If any equipment has useful life in excess of three years, its purchase price will be amortized in calculating cost over its useful life for a period of five years, whichever is less;
3. Operation of the physical plant, including heat, light, water, repairs, and maintenance;
4. Administrative cost and communication;
5. Auxiliary services including health services, rental of buildings and equipment, and food services, but not including transportation; and
6. Capital outlay expenditures including the cost of construction, remodeling, payments for both interest and principal. Bonded indebtedness during the prior school year, in addition to an amount equal to five percent of the fair evaluation of the existing plant, shall be included in the computation of the per capita cost. **(L)**

The total cost thus determined will be deducted from the state reimbursement due, not including any state reimbursement for transportation. The net cost will be divided by the average daily attendance in special education facilities for the school year in order to arrive at the net per capita tuition cost. **(L)**

A joint cooperative can be financed utilizing any one, or combination of elements of the following methods.

A. Each school corporation can support the program in proportion to its total school enrollment. For example, if the school corporation has ten percent of the total school enrollment or average daily attendance of those school corporations involved in the cooperative, costs to that particular corporation would be equal to ten percent of the total cost of the joint service special education program.

B. Each school corporation can be assessed according to the total number of pupils they have participating in the cooperative's special classes and programs. This method is sometimes considered less desirable because of children transferring in and out of the program, thus record keeping and resultant prorating of the cost of the program becomes especially difficult. **(R)**

A cooperative could be financed by utilizing a combination of the two methods outlined above. As an example, for administrative costs (director, secretary, administrative overhead), each participating school corporation can be assessed an amount equal to the percentage of the total school enrollment as outlined in 'A' above, and a specified number of, or all, special classes or services could be financed on the basis of the number of children enrolled in the classes as outlined in 'B' above. **(R)**

The state board of accounts requires that the administering school corporation maintain a separate ledger for any joint service program. **(R)**

It is possible for ESEA, Title I, III, and VI funds to be used to initiate, expand, and improve special education programs. However, it is imperative that local school corporations project their planning, during the funding period for Title money, so that desired programs and services initiated under said Titles can be absorbed through local and state support when and if Title funds are withdrawn. In addition, it is not desirable that the program be totally supported with state or federal monies. It is felt that this could create a lack of stability in the development of a quality program and those staff members working in such a joint service program would view their positions as short-term, as opposed to a stable and integral part of the total local educational program. **(R)**

The administering school district files for state reimbursement of joint special services school programs and distributes state reimbursement to the participating school corporations. If there are existing special education programs within the boundaries of joint school service programs that are not part of the cooperative, the state reimbursement forms can be filled out either by the director of special education or by the administrators of the various participating school corporations. In most cases, it will be most satisfactory if the state reports are filled out by the director of special education. **(R)**

SERVICES

A school corporation, acting individually or in a joint school service program with other corporations, may establish and maintain instructional facilities for the education of handicapped children including the multiple handicapped. They may also provide transportation for handicapped children residing in the geographical limits of the corporation to another school corporation maintaining the appropriate facilities. **(IC 20-1-6-3) (L)**

School corporations may provide home instruction for all handicapped children.

All nurses, therapists, doctors, psychologists, and related specialists employed for the special education program must be registered and authorized to practice under the laws of the state and are subject to any additional examination that the division of special education may require. A school corporation, either individually or in a joint services program, may purchase special equipment. All handicapped children receive credit for completed school work on the same basis as normal children doing similar work. **(IC 20-1-6-6-3) (L)**

A hearing handicapped child eligible for services in the training centers is defined as "any educable child of sound mind between the ages of three and 20 who has a hearing deficiency to the extent that it is impracticable or impossible for such child to benefit from or participate in a normal classroom program of the public schools in a school district of the residence of the child, and his education requires a modification of the normal classroom program." **(IC 20-1-613) (L)**

Teachers in classes and schools for handicapped children are appointed in the same manner as other public school teachers. They must possess the usual qualifications required of teachers and any special training the division of special education may require. The qualifications of paraprofessional personnel are subject to the determination of the department of public instruction and the state board of education. **(IC 20-1-6-3) (L)**

In order to coordinate services to hearing handicapped children, the hearing commission was established. The commission, composed of five members (one of whom is the state superintendent of public education), has authority to coordinate all activities relative to the education of hearing handicapped children and to cooperate with private organizations whose purpose is furthering the educational opportunities for the hearing handicapped. The commission is also responsible for coordinating the programs of the division of special education, the department of public instruction, and the activities of the state school for the deaf. With the approval of the state board and the hearing commission, a school corporation may provide a training center for the instruction and training of hearing handicapped children.

The training centers are for the oral training of hearing handicapped children. There can be no more than five centers with a total of 15 training units in the state. (A unit is a class established in a center, consisting of not less than six or not more than 10 children.) School corporations forming such units have the authority to convert, remodel, or construct school rooms for this purpose. The corporation must pay the cost of the conversion, remodeling, and/or construction and the cost of any necessary equipment, but the state of Indiana will reimburse the corporation in an amount not exceeding $1,000 for the purchase of equipment. All plans and contracts must be approved by the commission and the state board. The cost of conversion, remodeling, and/or construction may be financed as other school buildings are financed.

Deaf pupils will be educated in the local school corporations of Indiana unless one of the following conditions exist: 1) the parent or legal guardian of a deaf child expresses perference that the child attend the Indiana School for the Deaf; 2) the comprehensive plan for serving deaf children in the resident school corporation or joint service and supply cooperative is not approved by the department of public instruction because of inability to provide a comprehensive program according to the "Guidelines for Comprehensive Planning"; 3) it is the considered opinion of the attending physician, the parents, the school administration and administration of the Indiana School for the Deaf, that the child should be placed in the Indiana School for the Deaf.

School corporations operating training centers receive an amount to the per capita cost of educating normal children in the school corporation. At the end of each school semester, corporations must file a certified statement of the average cost per pupil for maintaining these classes and the average cost per pupil for normal children based on the average daily attendance with the state board. The average class for normal children includes the apportionment of school unit funds and state aid, if any. The state board will reimburse the excess costs of the maintenance of these classes up to $300. **(IC 20-10-28-1) (L)**

Any deaf-blind child between ages four and 14 may apply, through any relative, friend, or person assuming responsibility for the child's care, to the superintendent of the state for the deaf for temporary admission to determine whether the child is a proper subject for limited care and education at state expense. After receipt of the application, the superintendents of the school for the deaf and the school for the blind will jointly determine if the child is eligible. He will receive a physical and a mental examination to determine if he could make normal progress and develop as much as could be reasonably anticipated.

After the examinations are completed, the superintendents shall present the entire case to the administrative head of the division of medical institutions. If he finds it in the interests of the child and the state to give the child care and education at the state expense, he will then contract, on a year to year basis, with any school, special education training center, or institution providing services to deaf-blind children. The child may continue the schooling until he reaches age 21, if his progress warrants it. The cost will be paid equally from any funds appropriated to the school for the deaf and the blind. **(IC 16-7-14-1 and 16-7-14-2) (L)**

The following types of classes for the hearing impaired may be approved: infant, ages 6 months to 2; preschool, ages 2-5; primary, ages 6-7; primary-intermediate, ages 8-10; intermediate, ages 11-12; junior high, ages 13-15; and senior, ages 16-21.

The special class shall be limited in size to allow the teacher to meet the individual needs of each student enrolled.

Approval may be given for the operation of a variety of services which are designed to meet the individual needs of the hearing impaired. In addition to full-time special classes, the following alternate programs may be approved:

1. Special Consultation and Itinerant Instruction. Special consultation programs may be established to serve the mildly hearing impaired pupils whose special needs may be met by remaining in regular classrooms when special periodic instruction of an itinerant nature is provided, and when special consultation is provided their teachers, counselors, and supervisors. Such consultation is related to special seating arrangements, management of auditory amplification instruments, speech-reading instruction, and special sequences of counseling and guidance. Consultation is provided by professionally certificated teachers of the deaf, and speech, hearing, and language clinicians.
2. Resource Room Programming. Pupils remain in the regular class for the major portion of the day and are scheduled into the Resource Room for specialized work which may include language development, speech-reading, and individualized or small group developmental and remedial instruction in the basic subjects.
3. Cooperative Part-Time Programming. Pupils are assigned to a part-time special education class for a major portion of their instruction. Pupils are individually programmed into regular classes and activities as each pupil demonstrates potentially for successful placement. No more than eight pupils may be assigned to a cooperative part-time special class for any given period. The special education

teacher shall be responsible for maintaining a close working liaison with teachers of regular classes and activity programs.

Learning disabled pupils remain in the regular class for the major portion of the day and are scheduled into the Learning Resources and Tutoring Center for one or more periods of tutorial or small group instruction given by a professionally certificated teacher. The caseload of the resource teacher may vary from a minimum of eight who are severely handicapped to a maximum of forty, depending upon the type of instructional service needed.

Students may be assigned to a part-time special education class for a major portion of their instruction. Students are individually programmed into regular classes and activities as each student demonstrates the potential for successful performance. Class size may range from a minimum of four to a maximum of twelve students per period depending upon the degree of severity of the students involved. The special education teacher shall be responsible for maintaining a close working liaison with teachers of regular classes and activity programs.

The following types of classes may be approved:

Nursery Special Ages: 3-4	*Kindergarten Special* Ages: 5-6	*Primary Special* Ages: 7-9
Intermediate Ages. 10-12	*Junior High* Ages: 13-14	*Senior High* Ages: 15-21

Combinations of these classes may be approved by the division of special education. The special class shall be limited in size to allow the teacher to meet the individual needs of each student enrolled. Composition of special classes with regard to grouping types of students with learning disabilities shall be determined by the behavioral and learning compatibility of the students.

The caseload of each speech, hearing, and/or language clinician shall not exceed one hundred at any given time and shall be determined by the needs of the students, the number of schools, and the type of scheduling. Under intensive (block) or resource room scheduling, the caseload at any given time shall be reduced from the one hundred maximum to allow for the intensive nature of the program.

The following types of programs for students with communication handicaps may be approved:

1. *Intermittent scheduling.* Students shall be scheduled for at least two therapy sessions per week.
2. *Flexible scheduling.* Students shall be scheduled more frequently than the minimum of two therapy sessions per week, preferably on an individual basis, and for the number of sessions and amount of time necessary to reach specific objectives.
3. *Intensive (block) scheduling.* Schools shall be scheduled for certain segments of the year, the length and number of these segments for each school to be determined on the basis of number of students needing therapy, the needs of the students, and the length of the school year. Students shall be scheduled intensively within these segments.
4. *Combination scheduling.* Any combination of the above types of schedules which meets the needs of students with communication disorders may be approved.
5. *Resource room scheduling.* Approval may be given for the provision of intensive therapy with students with communication disorders in a resource room. Students may be assigned to regular or special classroom and are scheduled into the resource room for individual or small group therapy.

Types of scheduling shall be subject to the approval of the immediate supervisor.

School authorities of cities, towns, and townships in which there are 25 or more problem children who are at least three years retarded in mental development, may establish classes or courses to give instruction adapted to the child's needs and mental attainments. **(Ch 53, Acts of 1931) (L)**

Any parent or guardian unable to pay all or part of the cost of maintenance of a child in dormitories may apply to the county department of public welfare in the district of residence. The department will then investigate the financial condition of the parent or guardian and the needs of the child. If the department finds that the parent or guardian is unable to meet all or part of the expense of maintaining the handicapped child in the dormitory, and there is no other practicable way for the child to obtain an education, it shall give the necessary financial assistance up to 100% of the total maintenance. This assistance is to be repaid to the county welfare fund. These payments may be made directly to the parents or the authorities responsible for the operation and administration of the school. **(IC 20-1-6-7) (L)**

Transportation is provided for work experience programs.

For transportation from home to school, only one round trip each day will be approved, with actual cost of transportation not to exceed $2 per pupil per day.

For preschool deaf children, each school corporation selects the mode of transportation which best meets the particular need and meets the appropriate state standards.

Transportation for children in the preschool program for deaf children may be furnished by: Hiring a person to transport all the preschool children in the program, parents forming car pools, or using school buses. If possible, a parent or adult or other than the driver chaperones. **(R)**

The division of Special Education may from appropriated funds legally reimburse to school corporations 80% of approved special transportation costs for the work experience program, and for: special programs for the physically handicapped, including the visually handicapped, the hearing impaired, and those with special health problems; handicapped pupils who attend special classes outside their normal school attendance area, handicapped pupils legally transferred to special classes, and crippled children or those children with special health problems who are able to attend regular classes, if special transportation is provided. **(R)**

Class Size:

	NUMBER OF PUPILS	
	Minimum	Maximum
AURALLY HANDICAPPED		
Special Class	3	20
Oral Training Center Special Class	6	10
Speech/Hearing Therapy (Caseload)	--	100
Speech/Hearing Therapy Group	1	5
DEAF		
Special Class	1	10 (if possible)
SPEECH HANDICAPPED		
Speech Therapy Group	1	5
Speech Therapist (weekly caseload)	--	100
LEARNING DISABLED		
Educationally Handicapped - Part-time Special Class	4	15
Educationally Handicapped - Full-time Special Class	4	15
Homebound Instruction (Caseload)	--	5
PROGRAMS FOR HEARING IMPAIRED	--	5
EDUCABLE MENTALLY HANDICAPPED		
Special Class Primary	--	10-18 (with paraprofessional 18-21)
Special Class Intermediate	--	14-16 (with paraprofessional 23-25)
Special Class Junior High	--	16-18 (with paraprofessional 26-28)
Special Class Senior High	--	16-18 (with paraprofessional 26-28)
TRAINABLE MENTALLY HANDICAPPED		
Special Class	10	13[1]
PHYSICALLY HANDICAPPED		
Special Class	4	15
Homebound Instruction (Caseload)	--	5
EMOTIONALLY DISTURBED		
Homebound Instruction (Caseload)	--	5
Special Class (Educationally Handicapped)	4	15
Teacher Consultant (caseload)	--	40[2]
MULTIPLY HANDICAPPED		
Special Class	6	12
VISUALLY HANDICAPPED		
Primary Special Class	6[3]	8[3]
Other Special Class	6[3]	11
Itinerant or Resource Teacher (Caseload)	5	20
BLIND		
Special Class (Primary)	6	8
Special Class (Primary) (without teacher aide)	12	14
Special Class (Other)	6	11
Special Class (Other) (without teacher aide)	12	17
Itinerant or resource teachers	5	20
Homebound Instruction (Caseload)	--	5

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[1] Maximum age range -- 8 years. These figures represent optimum class size. Exceptions may be made when teacher's aide is employed.

[2] Regular classrooms

[3] In classes where a para-professional assists the teacher, add 6 students to both minimum and maximum sizes.

A sequential, contiguous progression for each deaf child through no fewer than three of the following seven grouping levels is required

a.	I	Infants	(Ages 6 mo-2 yr)
b.	II	Preschool	(Ages 2 yr-5 yr)
c.	III	Primary	(Ages 6 yr-7 yr)
d.	IV	Primary Intermediate	(Ages 8 yr-10 yr)
e.	V	Intermediate	(Ages 11 yr-12 yr)
f.	VI	Junior High	(Ages 13 yr-15 yr)
g.	VII	Senior High	(Ages 16 yr-21 yr)

A comprehensive program for the hearing impaired consists ideally of all seven grouping levels as listed above. It must be recognized that early training for the deaf blind (ages 2-5) is important.

The use of classroom paraprofessionals is encouraged as per rules and regulations of the commission on general education.

In addition to the regular curricular offerings, the secondary school program for the deaf shall provide opportunities for work study assignments, prevocational counselling and training.

For the infant program for the hearing impaired, there are three basic components for services: preventative care, hearing testing at periodic intervals, and parental counseling and guidance.

Special Classes under provision of Chapter 166, Acts of 1955, may be conducted by any public school corporation approved by the state board of education and the hearing commission. However, there shall not be more than five oral training centers in the state and not more than a total of 15 oral training units. Reimbursement cannot be made to any agency other than public school corporations. **(R)**

Indiana has programs for pre-school (2-5 yrs. inclusive) deaf children. The method of instruction is the oral method. Parents of children admitted to such program will participate in orientation sessions, part of which will be study groups.

The development of the curriculum for the preschool deaf program shall be based upon the patterns of adaptive behavior for normal hearing children from ages two through five years.

Each topic in the curriculum shall be subdivided into half-year levels from age two and a half. **(R)**

PRIVATE

The superintendent of public instruction may contract with private schools in or out of state to pay the excess cost of educating children of school age who may or may not be of normal intellectual capacity, whose handicap is of such intensity as to preclude achievement in the local school setting and for whom it is economically unfeasible to establish a local or regional special education program. It must be determined through appropriate diagnosis that the child can profit educationally from this type of program. Also any payment of state monies may be made only in situations where the cost of the services is more than the regular cost of educating children of like age and grade levels in the child's community of residence, and after each local school corporation provides its share of the total tuition cost (the regular per capita cost of general education in that community). Local school boards may pay tuition support for handicapped children attending schools approved by the superintendent and the commission of public instruction. The commission on general education is responsible for formulating the rules and regulations governing the types of handicapped children eligible for this program. **(IC 20-1-6-9) (L)**

The physically or mentally disabled, including the multiply handicapped are eligible for private placement.

Children, who may or may not be of normal intellectual capacity, whose handicap is of such intensity that achievement in the local school district is precluded and for whom it is economically unfeasible to establish a local or regional special education program, may also be eligible for private placement. Appropriate diagnosis must be made to ascertain whether the child can profit educationally from this program. Approval of placement is valid for one school year only. Approval during succeeding years is given if the child is making adequate progress as shown in an annual comprehensive status report. A decision as to continued eligibility for the next year is made by June 15. **(R)**

State payments may be made when the costs of services are more than the regular cost of educating children of like age and grade levels in the child's school district of residence and after the local district has paid its share of the total tuition cost (the regular per capita cost of general education in the district) **(R)**

Placements may be authorized in schools both within and without the state. **(R)**

Private school placements should be made on an interim basis only, pending availability of a program in a state or local district operated program. **(R)**

The local school corporation is responsible for obtaining information from the private facility to compile an annual comprehensive status report on the child's progress, which must be submitted to the division of special education by May. **(R)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Endorsement for Teaching Special Education

bachelor's degree – area of exceptionality (minimum of 8), elementary teaching methods (4), directed electives in general special education.

FACILITIES

The division of special educaton may authorize, with the approval of the state board, school corporations to purchase, convert, remodel or construct rooms or buildings for special schools for handicapped children. The director should consider geographical location of any previously authorized schools in an effort to get these schools located near the homes of handicapped children to be served. The school corporation will pay the cost of purchase, conversion, remodeling and/or construction, and the cost of building equipment for any such school, and may finance the conversion, remodeling, and/or construction as other school buildings are financed. If all plans and contracts have been submitted in advance to the director of special education and have been approved by the board of education, the school corporation establishing the school may send all of its handicapped children there. They also shall admit as long as the facilities permit, any other handicapped children in the state who are eligible for services and who are not provided with opportunities to attend adequate schools in their own school corporations. **(IC 20-1-6-5) (L)**

School corporations establishing special schools or classes for the handicapped may purchase, convert, remodel, lease, or construct and equip any building necessary to provide dormitories for handicapped children receiving services. The cost of the dormitories and equipment will be financed with approval secured in the same manner as for school buildings for handicapped children. School corporations shall estimate the average cost for room, board, and medical and personal services for each handicapped child living in the dormitories and will charge the parent or guardian of any child living in the dormitories accordingly. The cost paid by the parent or guardian will be credited to the fund of the local school corporation for education of the handicapped **(IC 20-1-6-6) (L)**

A school corporation, acting individually or in a joint school services program with other corporations, may convert, build, or lease the necessary school buildings or dormitories, or they may use existing buildings for the purpose of establishing and maintaining classes for one or more pupils who are residents of the state and who are defined as handicapped. **(IC 20-1-6-3)** See Services. **(L)**

All hearing impaired children in local or joint services programs should be housed in buildings which are being used primarily for non-handicapped children of similar chronological age.

Facilities shall meet standards as approved by the Commission on General Education (Rule S-1).

Adequate equipment shall be provided for all programs. (Rule S-1). Visual aids, special auditory training equipment, acoustical treatment such as carpeted floors shall be provided.

Materials especially designed to meet the needs of hearing impaired children shall be secured.

Each classroom and related area shall be equipped with some alarm system of flashing lights, used to alert the children.

Each classroom should be equipped with an observation area or an observation window, so that parents and visitors may observe without interrupting the class.

STATE PROFILE

IOWA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The board of education shall provide for the education of all the youth of the state, through a system of common schools and such schools shall be organized and kept in each school district for at least three months in each year. Any district failing for two consecutive years to organize and keep up a school as aforesaid, may be deprived of their portion of the school fund." **(Art. IX, Sec. 12 Iowa Const.) (L)**

Compulsory Attendance Law: All persons having custody of any child, who is between the ages of seven and 16 and in proper physical and mental condition, shall have the child attend some public school for at least 24 consecutive school weeks in any school year. **(Sec. 299.1 Iowa Code) (L)**

School districts or county boards of education are not required to keep a child who needs special education in regular instruction if the child cannot sufficiently profit from the work of the regular classroom. They are also not required to keep the child in a special class of instruction if it is determined that the child can no longer benefit or needs more specialized instruction available in the special state schools. No provisions of this law may be interpreted to require or compel any persons who are members of a well recognized church or religious denomination and whose religious convictions in accordance with the principles or tenets of their church or religious denomination are opposed to medical or surgical treatment for disease, to take a followup course of physical therapy, or submit to medical treatment. The parent or guardian who is the member of such a church or religious denomination and who has such religious convictions shall not be required to enroll a child in any course of instruction utilizing medical or surgical treatment for disease. **(Sec. 281.8 Iowa Code) (L)**

The board may exclude from school children under the age of six years when in its judgment such children are not sufficiently mature to be benefited by attendance, or any incorrigible child or any child who in its judgment is so abnormal that his attendance at school will be of no substantial benefit to him, or any child whose presence in school may be injurious to the health or morals of other pupils or to the welfare of such school. **(Sec. 282.3 Iowa Code) (L)**

Responsibilities: The board of directors of any school or county board may provide special educational services to handicapped children. If there are not enough children of any special type in the school district to warrant establishment of a special class, these children may be instructed in any nearby school district. **(Sec. 281.4 Iowa Code) (L)**

Children between seven and 19 years of age who cannot be educated in the public schools because they are deaf, blind, or severely handicapped will be sent to the proper state school unless exempted. Any person having such a child in his custody must see that the child attends school during the school year. **(Sec. 299.18 Iowa Code) (L)**

"All school districts are required to provide special education services to all children requiring special education as defined by § 281.2, Code of Iowa." **(Op. Att'y. Gen., June 21, 1971)**

There is no requirement in the statutes or regulations which defines the amount of training required before a child can be enrolled in special education. Therefore, a child cannot be excluded on the basis that he or shee is not toilet trained. **(Op. Att'y. Gen., June 21, 1971)**

Rule 12.13 (7) of the rules developed by the State Department of Public Instruction, plus various sections of the 1971 Code of Iowa for the education of handicapped children permits those children with an IQ of less than 30 to be excluded from public school special education classes. The same statutes and rules apply to a county school system. There is, however, a provision for the education and treatment of severely handicapped children in a hospital-school maintained in conjunction with the State University of Iowa and the University Hospital at Iowa City. All severely handicapped children are entitled to education and treatment at the hospital school. **(Op. Att'y. Gen., November 13, 1972)**

POPULATION

Definitions: "The term 'children requiring special education' shall be interpreted for the purpose of this chapter as either of the following:

"(1) Children under 21 years of age who are crippled, have defective sight or hearing, or have an impediment in speech or heart disease or tuberculosis or who, by reason of physical defects, cannot attend the regular public school classes with normal children;

"(2) Children under 21 years who are certified to be emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods.

"Provided that the term 'children requiring special education' shall include children under five years of age, but shall not include the blind, the deaf, and other physically and mentally handicapped children attending schools and institutions provided by the state." **(Sec. 281.2 Iowa Code) (L)**

Pupils with "specific learning disabilities" are pupils who manifest an educationally significant discrepancy between their estimated intellectual potential and actual level of performance related to basic disabilities in the learning processes, which may or may not be accompanied by demonstrable central nervous system dysfunction and which are not secondary to generalized mental retardation, education or cultural deprivation, severe emotional disturbance, or sensory loss. **(R)**

Children who "are hard of hearing shall include those children commonly identified as hearing handicapped. They are those pupils having a hearing loss which significantly restricts benefit from or participation in the normal classroom program and necessitates a modified instructional program." **(R)**

Children who have an "impediment in speech: shall include those children commonly identified as children with a communication handicap. They are those pupils with a disorder of communication, present when one has deviation in speech, voice, or language to the degree that it makes a difference: it interferes with self-expression, or ability to comprehend speech, or causes the individual to become maladjusted to his environment. Speech deviations which do not fit one or more of these criteria are not considered to be of a handicapping nature but rather may be of a developmental nature or an expression of individuality. The speech handicapped pupil's special education needs shall be met through six distinct speech therapy services: identification, remediation, referral, resource, administrative, and research services." **(R)**

Age of Eligibility: Special education services may begin at birth and extend through age 21. However, any person who, because of a congenital defect, accident, or prolonged illness, is unable to complete the special education requirements by his 21st birthday may have the period of special education extended for three years more

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: Within 10 days after the regular July meeting of the school board, the secretary of the school board of each district must file with the county superintendent a report showing the names, ages, and post-office addresses of all residents (regardless of age) who are so blind that they cannot acquire an education in the county schools, all persons between the ages of five and 35 who are so handicapped that they cannot obtain education in the public schools, and the name, sex, age, and disability of every physically handicapped or mentally retarded person of school age with the name and post office address of parent or guardian. **(Sec. 291.10 Iowa Code) (L)**

The assessor, when making his assessment, will record the names, ages, sexes, and post office addresses of all deaf, blind, or severely handicapped persons within the county. The county or city assessor will forward these to the secretary of the state board of education within 30 days after they are completed. **(Sec. 299.17 Iowa Code) (L)**

As part of the school census, each sub-director shall, between June 1 and 15 in every even numbered year, make a list, citing the names, sexes, ages, and disabilities of physically handicapped and mentally retarded persons of school age with the names and post office addresses of their parents or guardians. By June 20, the sub-director will send this to the school secretary of the township who will then compile the full record. **(Sec. 279.22 Iowa Code) (L)**

The state department of public health shall furnish, when requested, to the state division of special education, information obtained from birth certificates relative to the name, address and disability of any case of congenital deformity or physical defect. The state crippled children's division will, when requested, furnish to the state division of special education names, addresses, and disabilities of all children on their registers. **(Sec. 281.5 Iowa Code) (L)**

Assessment and Placement: Children requiring special education must be certified in accordance with requirements established by the division of special education. Examinations of children must be made preliminary to certification. Necessary examinations are to be prescribed by the state division of special education. Final decision in the case of disagreement or appeal will be the responsibility of the state superintendent. He may secure the advice of competent medical and educational authorities including the state department of health, university hospitals, state department of social welfare, superintendent of the state school for the deaf, superintendent of the Iowa Braille and Sight Saving School, and the superintendent of the state tuberculosis sanatorium. **(Sec. 281.7 Iowa Code) (L)**

After a school district or county board has provided for any child requiring special education either by assignment to a special class or by special instruction, it is the duty of the parent or guardian of the child to enroll him for instruction unless a doctor's certificate is filed with the secretary of the school district showing that it is inadvisable. **(Sec. 281.6 Iowa Code) (L)**

All school districts in Iowa should have systematic group testing programs for intellectual ability and achievement.

Files should be searched to discover children evaluated for speech and hearing problems. **(R)**

All faculty members should be given inservice training in identification procedures. **(R)**

Before receiving special education services, each child must be certified according to state requirements. In the case of an appeal or disagreement, the state superintendent will make the final placement decision.

After a district has provided for any child requiring special education, it is the duty of the child's parent or guardian to enroll him for instruction, unless a doctor's certificate is filed with the school district secretary showing that it is unadvisable. **(R)**

Learning disabled children are identified by school personnel, all of whom should be familiar with the particular types of educational and behavioral problems of these children. **(R)**

The assessment consists of a series of comprehensive examinations, including, but not limited to a medical examination, a psychological examination, including at least an individual test of intelligence, a vision examination, a language evaluation, a speech evaluation, an audiological evaluation, an educational evaluation, and when appropriate, a psychiatric evaluation. No child will be placed in a special class for the specific learning disabled without an evaluation and a certification by the special education director of the existence of a handicapping condition and recommendation for such placement. **(R)**

Hearing handicapped children are usually identified through annual audiometric screening of all school children. **(R)**

Evaluation is the responsibility of hearing clinicians, who must hold a master's degree in audiology from a state-approved institution, and who may be required to hold a certificate of clinical competence in audiology from the American Speech and Hearing Association. Pupils failing the initial audiometric screening test are then given a pure tone audiometric test, a vision examination, and a psychological evaluation. **(R)**

Speech handicapped children may be identified by speech-adequacy screening techniques and by referral from family, teachers, administrators, physicians, or other professionals. The clinical speech services program provides the screening tests. **(R)**

A speech clinician is responsible for evaluating speech handicapped students. In Iowa, to be fully certified, a speech clinician must hold a master's degree in speech pathology from an approved institution. The speech clinician determines the services each child receives. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The division of special education is responsible for the promotion, direction, and supervision of education for children requiring special education in the public schools. The state superintendent, with the approval of the state board, is responsible for organizing the division and employing necessary personnel. **(Sec. 281.1 Iowa Code) (L)**

The division, subject to the approval of the state board, has the following duties and powers:

1. Aiding in the organization of special schools, classes, and instructional facilities and supervising the system of special education,
2. Establishing the standards for teachers, giving examinations to teachers, and issuing them certificates,
3 Adopting plans for equitable reimbursement in whole or in part for the cost of carrying out programs in special instruction;
4. Adopting plans for the establishment and maintenance of day classes, schools, home instruction, and other methods;
5. Purchasing and otherwise acquiring special equipment, appliances, and other aids for use in special education as well as loaning and leasing the same under department rules and regulations;
6. Prescribing the courses of study and curricula, special schools, classes, and special instruction, including physical and psychological examinations, and prescribing minimum eligibility requirements for children;
7. Providing for certification, by competent medical and psychological authorities, on the eligibility of children for admission to or discharge from special schools, classes, or instruction,
8. Initiating the establishment of classes for children requiring special education in hospitals and convalescent homes in cooperation with the management of such facilities and local schools districts and county boards of education;

Cooperating with the school districts and county boards in arranging for any child requiring special education to attend school in a district other than the one in which he resides,

10. Cooperating with the existing agencies such as the state department of social welfare, state department of public health, state school for the deaf, the Iowa Braille and Sight Saving School, the tuberculosis sanatorium, children's hospitals, or other agencies concerned with the welfare and health of children requiring special education and the coordination of the educational activities of the children;
11. Investigating and studying the needs, methods, and costs of special education for children requiring special education, and
12. Making other necessary rules and regulations. **(Sec. 281.3 Iowa Code) (L)**

The state board of regents is responsible for the state school for the deaf. **(Sec. 262.7 Iowa Code) (L)**

PLANNING

To initiate, organize, and operate services for children requiring special education, local educational units must:

1. Initiate special education services only after careful planning which insures sound establishment of such services, proper identification of children, meeting of required standards, and continuity of instruction which includes followup activities at all levels;
2. In planning, specifically consider the number of handicapped pupils necessary to accomodate appropriate groupings, and provide for appropriate and continuing identification procedures. Evidence of adequate planning must be made available to the division of special education upon request and must be considered in the approval of special education services. **(R)**

County Boards of Education may purchase or lease facilities for a reasonable period of time for the education of handicapped children. Section 2781. of the Iowa Code allows local boards to contract to rent buildings for up to 20 years. **(Op. Att'y. Gen., August 31, 1965)**

Districts or county boards of education maintaining approved special education programs may receive state reimbursement for the excess cost of instruction above the per pupil cost of instruction in the regular curriculum of the district. If the program is established by the county board of education, the average cost of instruction of pupils in the participating districts will be determined in the following manner: Cost of instruction for all pupils exclusive of those in special education will be determined on a per pupil basis. The total cost of instruction of all pupils in special education will then be determined on a per pupil basis. The excess cost per pupil in special education will be the difference between the cost per pupil of all children exclusive of those in special education and the cost per pupil in special education. Excess per pupil cost multiplied by the average number of pupils in special education in the district or county is the amount that that district or county is entitled to receive.

The cost per pupil, both in special education and in the regular curriculum, is based on the following: general administrative costs, instructional costs, health service, attendance offices, plant operation, plant maintenance including equipment, transportation and insurance. This section applies to all programs existing prior to July 1, 1973 and to the continuation of existing programs after that date. **(Sec. 281.9 Iowa Code) (L)**

By June 20 of each year, the school districts or counties must report to the division of special education any necessary information in order for the division to determine the amount of reimbursement to which the county or district is entitled. **(Sec. 281.10 Iowa Code) (L)**

A new law specifies that: "A school district, county board of education, or joint county board of education that provides special education as required by this chapter shall, prior to March 1, 1972, and each March first thereafter, apply to the department of public instruction, upon forms prescribed by the department, for qualification to receive reimbursement pursuant to this chapter. During the following fiscal year the department shall approve each application and qualification if the district, county board of education, or joint county board establishes all of the following:

"1. That there are sufficient students within the area who are in need of the instruction.

"2. That the applying unit is the unit that can best and most efficiently provide for the instruction without duplicating services otherwise provided, as opposed to another available educational unit.

"3. That the unit has qualified teachers available.

"4. That the instruction is a natural and normal progression of a planned course or courses of instruction, and that this progressive growth factor is not out of proportion to the ability of the educational unit to pay for the courses of instruction.

"5. That all reimbursement sought is for actual delivery of special education services and not for administrative costs.

"6. Other factors as the department may require.

"There is hereby appropriated out of the general fund of the state to the department of public instruction beginning July 1, 1973, a sum sufficient to pay all approved applications for reimbursement pursuant to this chapter and this section, to the extent that the approved applications are for expanded special education programs beyond those programs provided for the fiscal year commencing July 1, 1971, or January 1, 1972, but only to the extent that the expanded programs would have qualified for state reimbursement pursuant to this chapter, as interpreted by the rules and regulation of the state department of public instruction effective on July 1, 1970." **(Sec. 281.11 Iowa Code) (L)**

To aid the state board in estimating financial requirements for the programs for exceptional children, at the time of the annual school census, the secretary of each school district will file a report with the county superintendent listing the name, sex, age, post office address, and disability of every physically or mentally handicapped person of school age, with the name and post office address of his parent or guardian, and any other pertinent information. Copies of all reports will be sent by the county superintendent to the division of special education by August 1. **(Sec. 281.5 Iowa Code) (L)**

Special education programs for children with specific learning disabilities are reimbursed by the state department of public instruction through the division of special education. At the present time, the rate of reimbursement depends upon the type of program available. Programs that are primarily resource room or itinerant teacher in nature are reimbursed at the rate of 100% of the teacher's salary and travel expenses. Programs that are self-contained are reimbursed at the rate of the following formula: $\frac{S+1/3S}{16} \times \mathrm{ADM}$ ("S" represents the teacher's salary, "ADM" is the average daily membership of the class, and "16" is a constant factor.) For the self-contained class there is a maximum of $450.00 allowed per child enrolled. Whether the program is of an itinerant, resource, or self-contained type, the reimbursement claim is pro-rated on the basis of the amount of funds available to the division of special education for reimbursement to local school districts. **(R)**

Boards of local school districts shall provide auxiliary services and materials to nonpublic school students enrolled in nonpublic schools in the district through the same administrative procedure by which they are provided to the public school students in that district and to the extent that funds appropriated by the general assembly to the department of public instruction for reimbursement for claims of school districts filed pursuant to this section are sufficient to pay for the services and materials. The department of public instruction shall allocate funds to the board of each local school district on the basis of plans approved by the department for delivery of auxiliary services and materials and claims for reimbursement filed by the school district. Funds allocated by the department for approved plans and claims for reimbursement to each local school district shall not be paid for delivery of auxiliary services and materials to students who attend nonpublic schools that have policies which discriminate among students on the basis of race, color, creed, sex, or place of national origin, except that it shall not be considered discrimination for a nonpublic school to limit enrollment to students of one sex or one creed.

Nonpublic school students enrolled in public school shared-time programs shall for the purposes of school district reimbursement under this section be counted only in proportion to the time for which they are enrolled or receive instruction.

Auxiliary services and materials shall include health services, special education programs, remedial programs, library and resource centers, audio-visual services and equipment, guidance services, scientific instruments, testing services, and data processing services. **(257.26 Iowa Code) (L)**

Auxiliary services and materials, defined in this section, in excess of those for which funds are appropriated to the department for public instruction may be provided to nonpublic school students by the board of a local school [illegible] **(257.26 Iowa Code) (L)**

There is no dollar limitations on the amount of money that can be spent per year for special education if it is needed. Section 281.9 of the Code of Iowa provides for the reimbursement of costs beyond the costs for regular students.

In some cases where services are not available in the home district of a handicapped student, agreements with other districts to provide services can be made pursuant to Chapter 28E, Code of Iowa. For those districts near the border of another state, a handicapped student could even be sent to another state where special services are available.

Children in care of the state, such as those in residential care facilities, are entitled to go to school in the district where the facility is located. If special services are required and not available in the home district, the children may be sent to any district with the tuition and transportation expenses paid by the state. In addition, school districts may contribute to the cost of area residential care programs conducted as part of county system. **(Op. Att'y. Gen., June 21, 1971)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

County boards of education in two or more adjacent counties may merge, with the approval of their respective **boards** of directors, the county school systems into one school system. The merger must be approved by the state **board** of public instruction before becoming effective. The notice of the merger must be published at least 30 days **days** prior to the effective date. The following provisions apply to merged systems.

1. The merged school system must be known as the joint county system.
2. The merged system must have one tax base made up of the combined tax bases of the respective county school systems.
3. The merged system becomes effective on the July 1 following the approval of the merger.
4. The territory of the joint county system is divided into six election areas by the affected county boards. If there are changes in the area of the system, the joint board of education will make the necessary adjustments to equalize territory and population size of the election areas. No change will be made less than 60 days prior to the dates of the annual school election.
5. There will be a joint board of education consisting of seven members, one elected from each of the respective election areas.
6. Joint boards or county boards, subject to the approval of the state board, may provide courses and services for physically, mentally, and educationally handicapped students, provide special and remedial courses and services, educational television, vocational rehabilitation training centers and workshops, and may lease, acquire, maintain, and operate necessary facilities and buildings.
7. Joint boards or county boards are authorized to apply for and accept available state and federal funds. **(L)**
8. Joint boards exercise all the powers and duties imposed on county boards by statute.

Children may be instructed in a nearby school district in which special classes have been established by mutual **agreement of the** board of directors of the affected school districts and by payment of tuition, or the county board **of education may** establish special classes in cooperation with local boards. **(273.22 Iowa Code) (L)**

Elections to the joint board of education shall be held at the annual school elections for members whose terms expire **on the** first Monday in October following such elections and their term of office shall be for three years. Vacancies **on** said board shall be filled at the next regular meeting of the board by appointment by the remaining members of the board until the next election at which election a member shall be elected to fill the vacancy for the balance of the unexpired term. A vacancy shall be defined as in section 277.29.

For the purpose of selecting the initial membership of the joint board of education, the respective county boards shall meet in joint session, at least thirty days prior to the effective date of the joint system, and select, from their own membership, one member residing in each of the aforesaid election areas and one member at large. The members so selected shall assume office upon the effective date of the joint system for respective interim terms to be determined by lot. Three of such interim terms shall expire on the first Monday in October in the first year after the date of such selection, two shall expire one year thereafter, and two shall expire two years thereafter. On the **effective** date of the joint system the respective **county** boards of education shall cease to exist and the joint board **of education** shall thereafter exercise the powers and perform the duties of said respective boards. **(Sec. 273.22 Iowa Code) (L)**

SERVICES

BEST COPY AVAILABLE

When providing special services to children requiring special education, the board of directors of any school or county board of education may provide transportation, maintain one or more suitable special classes, provide for instruction of children in regular classes, and provide special facilities and equipment for special classes, special schools, or home instruction as part of the local or county school system. The board may also prescribe the use of other aids to special education such as physical therapy, corrective gymnastics, rest periods, warm lunches, social and vocational counseling, and training. Local districts and counties providing special education must employ qualified teachers certified as teachers for children requiring special education. **(Sec. 281.4 Iowa Code) (L)**

The state board of regents may maintain, in connection with the state university in Iowa City and the university hospital, a hospital-school for the education and treatment of severely handicapped children. **(Sec. 263.9 Iowa Code) (L)**

The hospital-schools may provide education, care, and training for severely handicapped persons. The hospital-schools are conducted in conjunction with the activities of the University of Iowa's children's hospital; as far as practicable, the facilities of the university children's hospital also will be utilized.

Persons under the care and supervision of the board of control, who are severely handicapped, may be transfered to the hospital-school on terms agreed upon by the state board of education and the state board of control. **(Sec. 263.10 Iowa Code) (L)**

Persons eligible for services at the hospital-school for the severely handicapped include: "Every resident of the state who is not more than 21 years of age, who is so severely handicapped as to be unable to acquire an education in the common schools, and every such person who is age 21 and under 35 who has the consent of the state board of education, shall be entitled to receive an education, care, and training in the institution." The term "severely handicapped" means, in this context, "persons who are educable but severely physically and educationally handicapped as the result of cerebral palsy, muscular dystrophy, spina bifida, arthritis, poliomyelitis, or other severe physically handicapping conditions." **(Sec. 263.10 and 263.14 Iowa Code) (L)**

A child attending the hospital school is counted as a pupil attending the public schools for state aid purposes. **(Sec. 265.6 Iowa Code) (L)**

Special contracts for the transportation of pupils entitled to transportation may be entered into only if it is more economical to make the special provision than it is to provide the same by a regular bus route, or if because of a child's physical or mental handicap, he may not be transported with safety by bus. **(Sec. 285.11 Iowa Code) (L)**

Class Size:

	NUMBER OF PUPILS	
	Minimum	Maximum
LEARNING DISABLED		
Special Class	--	15
AURALLY HANDICAPPED		
Special Class	--	8[1]
SPEECH HANDICAPPED		
Speech Therapist (Caseload)	50	75
VISUALLY HANDICAPPED		
Itinerant or Resource Program (age range no greater than one year)	--	15
TRAINABLE MENTALLY HANDICAPPED	--	10[2]
PHYSICALLY HANDICAPPED		
Special Class:		
Age Range less than one year	-	15(20[3])
Age Range one to two years	--	14(19[3])
Age Range two to three years	--	13(20[3])
Age Range three to four years	--	12(17[3])
Age Range four to five years	-	11(16[3])
Age Range five to six years	-	10(15[3])
Age Range six to seven years	--	9(14[3])
Age Range seven years or over	--	8(13[3])
EMOTIONALLY DISTURBED		
Special Class	--	10[4]

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[1] Children may not be combined in any class from more than two of the following levels: Nursery School (C.A. 3-5) Primary (Grades K - 3) Elementary (Grades 4 - 6) Intermediate (Grades 7 - 9) Secondary (Grades 10-12)

[2] 15 with matron, if age range does not exceed 8 years

[3] with matron

[4] age range 4 years or less

In a situation involving a 15-year old severely physically handicapped student, it was ruled that the school system was not *required* to furnish transportation. It is at the discretion of the school system in this case. The student was confined to a wheelchair and was being transported to school by the parents. The school system had offered to provide home instruction. Ch. 174, Acts of the 63rd. G.A. First Session, only required the school district to make provisions for special education services for the handicapped children of the district. In this case, the district fulfilled its obligation, and it "may not be required to furnish transportation in lieu of instruction." **(Op. Att'y. Gen., Feb. 3, 1971)**

Programs including transportation may be established for individual children. (R)

Transportation is supplied to and from a public school facility offering a special program if regular school bus transportation is not available at that time. Special transportation may include transporting children to another school district for special education services, as well as transporting handicapped pupils in and about the school (carrying, lifting, etc.) (R)

School buses or (if it is more economical or a child's physical or mental handicap makes it unsafe for them to be transported by bus) special contract with private carriers are used to transport handicapped children. (R)

Provision is made to reimburse excess costs involved in providing special transportation including special transportation in and about the school to the school system providing services. Also included with reimbursement for other excess costs. (R)

The following types of educational programs may be provided for hearing handicapped children: day class programs on preschool, elementary, or secondary level, resource classroom programs and itinerant teacher programs on elementary or secondary level, tutorial programs on an individual pupil basis. Special class programs for hard of hearing pupils are to be separate from those for deaf pupils. Specialized services for hard of hearing pupils must emphasize development and use of communication skills and language, while classes and specialized instruction and services for deaf pupils emphasize language development and curriculum subject matter appropriate to each pupil's grade level. Special education programs and services for all hearing handicapped pupils should be provided with appropriate equipment and educational materials, such as equipment capable of providing the type and level of amplification needed, pertinent visual aids and auditory habilitation materials, audiometers, etc.

Remediation is a service provided to those pupils identified as having a handicapping (speech handicap) disorder, and it consists of services appropriate to the disorder. Services shall consist of periodic diagnostic evaluations, direct and indirect remediation activities through manipulations within the environment, conferences and counseling with parents, guardians, siblings, peers, teachers, administrators, and other specialists providing complementary services to the pupil. (R)

There are essentially three types of educational programs for children with specific learning disabilities. These programs may utilize an itinerant teacher, resource room, or self-contained classroom approach. Regardless of the approach, the curriculum will usually include assistance in basic academic areas with the application of highly specialized instructional techniques. Normally, most of these children can be appropriately educated in a resource or itinerant teacher program. Self-contained classroom programs are probably most effective for children with the more severe problems, especially those with concomitant moderate to severe behavior problems. (R)

No services, materials, or programs provided in this section shall be provided for students in nonpublic schools unless they are available for students in the public schools of the district.

PRIVATE

Districts may contract with approved private facilities to provide services for children requiring special education if public facilities are unavailable. (L)

The crippled, defective sight, hard of hearing, speech impaired, heart diseased, tubercular, physically defective, emotionally maladjusted, and intellectually incapable are eligible for private placement. (R)

See Finance.

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Elementary-Secondary Teachers of Special Subjects (Certificate No. 2)

approved bachelor's degree program in the subject of service

Permanent Professional Certificate

valid for life; hold certificate no. 2, master's degree in an approved program; 4 years experience

FACILITIES

Statutes contain no specific provisions for handicapped in this area.

STATE PROFILE

KANSAS

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: The legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement by [illegible] schools of a higher grade [illegible] (Art. VI, Sec. 2, Kan. Const.) (L)

Compulsory Attendance Law: Children between the [illegible] unable to attend school [illegible]

If a school district has provided [illegible] parent or guardian to enroll the child [illegible] district showing that it is [illegible]

All parents, guardians [illegible] (KSA 72-5306)(L) mentally qualified and between [illegible] the blind and deaf are taught [illegible] child has reached the age of [illegible] or both, at least nine months [illegible]

Responsibilities

The governing bodies of all school districts shall establish special [illegible] programs for all developmentally disabled children. Such classes shall be [illegible] July 1, 1974.

School districts may establish [illegible] and provide for instruction in regular classes [illegible] special classes, special schools, or home instruction [illegible] exceptional children as required for effective education. (KSA 72-5332)(L)

In any special education program nonresident pupils may be accepted if this does not result in an overload in terms of standards [illegible] by the division of special education. (L)

POPULATION

Definitions: "Developmentally disabled children" means children who are under 21 years of age who suffer from a disability attributable to [illegible] which has continued or can be expected to continue indefinitely [illegible] by a competent authority approved by the director [illegible] school room."

"Home bound children" means children who 1) are under 21 years of age, 2) are eligible to be determined by standards for eligibility established by the state board, 3) because of illness or other handicap cannot attend regular classes in public schools, and 4) have been certified by their respective attending physicians as being in such condition that they must [illegible] regular school classes and as being physically able to receive instruction in the home or at a hospital or in both." (KSA 72-5341)(L)

"Exceptional children" means children who 1) are under 21 years of age, 2) are educable to be determined by standards for educability established by the director, 3) are crippled or hard of hearing or emotionally or socially maladjusted or have defective sight or defective speech or cerebral palsy or who are delicate (including heart conditions) or [illegible] gifted and who have been found by competent authority approved by the director to be best educated by special instruction from a special teacher either on a full or part time basis." (KSA 72-5360)(L)

"The term 'children requiring special education' shall be interpreted for the purposes of this chapter as either of the following: 1) children under 21 years of age who are crippled or have defective sight or are hard of hearing or have an impediment of speech or heart disease or tuberculosis, or who by reason of physical defects cannot attend the regular public school classes with normal children. 2) Children under 21 years of age certified to be emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods.

"Provided, that the term 'children requiring special education' shall include children under 5 years of age but shall not include the blind, the deaf and other physically and mentally handicapped children attending special schools and institutions provided by the state." (KSA 281.2)(L)

Age of Eligibility: Eligible children may receive special education services from birth through age 21. (KSA 72-5360)(L)

Any person because of congenital factors, accident, or prolonged illness, unable to complete his special education program by his 21st birthday, may have the period continued by the school district for up to three additional years. (KSA 72-5341)(L)

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: All school districts must take an annual school census and file the report with the county clerks The census will include the names, sexes, ages, post office addresses, and disabilities of all exceptiona children of school age. Names and post office address of each child's parent or guardian and other information the division of special education may require will also be included. When required by the state division of special education, the state crippled children's commission will furnish the names, addresses, and disabilities of all children on their registers. The school census takers are required to report all exceptional children not reported in the public schools, giving the name, age, date and nature of the handicap of each physically and mentally handicapped child as well as the names and address of the guardian or the person having control or custody of the child. **(KSA 72-5338) (I.)**

All superintendents of schools and persons in charge of every private school must report to the division of special education of the state department of public instruction all blind, deaf, and hearing and sight handicapped children with their names, ages, residences, and post office addresses from the age of infancy to 21 who are so deaf and blind as to be unable to acquire an education in the public schools of the state, or so hearing or sight handicapped as to be handicapped from acquiring an education. Superintendent, public health officers of cities and counties, and all other public officials whose official duties include working with the deaf, blind, or sight handicapped are required to cooperate in obtaining a full report for the division. **(KSA 72-5301) (I.)**

Screening: All school boards shall provide the basic vision screening tests without charge to all pupils at least once every two years. Tests may be performed by a teacher or other designated person. The results of the tests, and, if necessary, the desirability of an examination by a qualified physician or optometrist, shall be reported to the parents or guardians of the pupils. **(KSA 72-5377) (I.)**

Assessment and Placement: Prior to placement in a special education class, exceptional children must be certified in accordance with requirements of the state division of special education with examinations provided by personnel certified by the state division. The results of any examination will be furnished to the teacher responsible for training the child. **(KSA 72-5340) (I.)**

Blind and visually handicapped children are referred as soon as they are identified to the division of special education by the chief administrator of each school district for evaluation. The division maintains a central file of all information concerning such children and arranges for the examination of blind or sight handicapped or visually impaired children by an educational clinical team. The team holds meetings at the state school for the blind or any other appropriate place or facility at regular and frequent intervals to evaluate the needs and capabilities of blind, sight handicapped, or visually impaired children.

Persons representing other related special areas may be requested by the team to furnish information and, if necessary, to meet with them. Upon completion of the examination, the educational clinical team prepares reports, stating in concise terms the needs and capabilities of the child, and discusses these needs and capabilities in detail with the parents. The report is then submitted to a review board which makes the recommendations concerning the type of educational study or environment in which the child should be placed, taking into account all relevant factors including parental preference. The recommendations are then sent to the parents or legal guardians of the child and to the local school district. Upon request, the recommendations may be sent to any judge in the district court or probate court considering the matter pertaining to the case, custody, welfare, or education of the child. The school district of residence of the child is obligated to pay the expense of transporting any student to meet with the educational clinical team. **(KSA 72-5368C) (I.)**

The educational clinical team is composed of two psychologists, one from the staff of the division of special education and one appointed by the board of regents from institutions under its jurisdiction; two educational consultants, one from the division of special education and the other from the state school for the blind; and a medical doctor appointed by the board of regents of the Kansas University Medical Center. **(KSA 72-5368D) (I.)**

The procedure described for evaluating blind and sight handicapped children may also be followed to evaluate deaf and hearing handicapped children. The division of special education and the state department of public instruction will determine what children should be evaluated. If they determine that an evaluation is necessary, then the format described for the blind and sight handicapped will be followed. **(R)**

The speech correctionist may provide hearing testing services on a limited basis by testing certain grades.

ADMINISTRATIVE RESPONSIBILITY

Within the state department of public instruction is a division for special education to direct and supervise the program for exceptional children through the control of the state superintendent. The state division has the following powers and duties:

1. aiding school districts to organize special schools, classes, and instructional facilities for exceptional children and supervising the system of special education;
2. establishing standards for teachers and recommending certificates for teachers who qualify;
3. adopting rules and regulations for the establishment and maintenance of day classes, schools, home instruction and other methods;
4. prescribing curricula for special schools, special classes and special instruction of exceptional children, including physical and psychological examinations and prescribing minimum requirements for exceptional children admitted to any schools, classes, or instruction;
5. initiating establishment of classes for exceptional children in convalescent homes in cooperation with the management of homes and hospitals in the local districts;
6. cooperating with school districts to arrange for exceptional children to attend school in districts other than those in their district of residence, and
7. cooperating with existing agencies such as the state department of social welfare, board of health, receiving home for children, institution for the education of the deaf, institution for the education of the blind, sanitorium for tubercular patients, crippled children's commission or other agencies concerned with the welfare and health of exceptional children, and coordinating their educational activities for exceptional children, investigating and studying the subject of special education, and finally making rules and regulations to carry out a special education program. **(KSA 72-5336) (L)**

The board of directors of any school district or any county board of education with the state department of public instruction's approval may provide transportation and establish and organize one or more suitable special classes, or provide instruction in the regular classes or in the home, and may provide special facilities and equipment for special classes in special schools or home instruction as a part of the county school system for children requiring special education. If there are not enough children of any one type in a school district to warrant the establishment of a special class, the children may be instructed in any nearby school district by mutual agreement of the board of directors of the school district affected and by paying the regular tuition rate; the county board of education may establish the special classes in cooperation with the local board; or the county board with state department approval may prescribe the use of other aids to special education such as physical therapy, corrective gymnastics, rest periods, warm lunches, social counseling, and vocational counseling and training. The board of directors of each school district or county board of education in each county providing the services shall employ qualified teachers certified by the authority provided by law as teachers for children requiring special education. **(KSA 281.4)(L)**

The state school for education for the deaf is under the supervision of the state board of education. **(KSA 76-1001A)(L)**

The state department of public instruction is responsible for determining if deaf or blind children should be educated in state or-out-of state facilities, or institutions. The division of special education, with the approval of the state superintendent, is the agency responsible for cooperating with existing agencies such as the state department for social welfare, Kansas University Medical Center, state department of health, state school for the deaf, and state school for the blind to coordinate educational activities for blind and deaf children. **(KSA 72-5368B) (L)**

The division also maintains as a state service, a library of teaching aids and materials, professional publications on special education, and clear type and braille books for use by visually handicapped children. These may be loaned to school districts upon request. **(R)**

The first, third, fifth, seventh, and ninth grades are tested each year. If a testing program is already in operation in the school district, the administrator should evaluate the training and experience of the individual providing the tests. If his background in this field is not comparable to the correctionist's, the coordination of the program should be brought under the speech correctionist's direction. **(R)**

The review board for placing sight and hearing handicapped children is composed of the superintendent of the state school for the blind, the director of the division of special education, one member appointed by the board of regents, one member appointed by the state superintendent of public instruction, and one member appointed by the governor. **(KSA 72-5368D) (L)**

The procedure described for evaluating blind and sight handicapped may also be followed to evaluate deaf and hearing handicapped children. The division of special education and the state department of public instruction will determine which children should be evaluated. If they determine that an evaluation is necessary, then the format described for the blind and sight handicapped will be followed. **(KSA 72-5368H)(L)**

The director of special education or administrator in charge of the program for the mentally retarded should create an admissions committee and serve as its chairman. He should select a group of three or more to staff each individual case after information has been assembled. Possible committee members might be selected from the following persons: classroom teachers; special class teachers; principals; curriculum consultants, psychological examiner; school nurse, or supervisors of elementary or secondary education.

This committee determines placement for all exceptional children on the basis of evaluation records, opinions of teachers and other school personnel, school achievement records, parental preference, and the child's educational needs. The committee should confer with parents and attempt to gain their cooperation in placing the child. **(R)**

Whenever possible, parents should visit the special class and have an opportunity to discuss the program with the special teacher. During the conference and visitation, care should be taken to inform parents fully about the program, and they should be given time to arrive at their decision.

Frequent follow-up conferences with parents are the responsibility of the special teacher. In difficult cases, the special teachers will need the support of administrators and other members of the admissions committee. **(R)**

PLANNING

The administrative planning group is responsible for working with planning commission recommendations and placing them in an administrative hierarchy of objectives. They may range from objectives of immediate concern, through those attainable but withheld for consideration within the first period of time, to those to be developed in the future. This permits the restructuring of objectives as well as continuation, deletion, and addition of old and new objectives to provide for implementation resulting from insights gained through development and practice. Membership of this group must include a chairman, who must be a program director or coordinator of programming in mental retardation and a state department of education staff member; a local director of special education; a teacher leader or curriculum specialist for mentally retarded at the local level; an instructional materials center representative; and a teacher trainer of mental retardation. **(L)**

The curriculum planning commission reviews state activities and provides a critical review in order to make recommendations for the administrative planning group. This requires up to date written summaries from each workgroup chairman and from the program director in mental retardation. These summaries must include accomplishments and related problems as well as new discoveries and insights. The Director of Special Education or the Program Director in mental retardation, State Department of Education, shall call the group into session at least twice and no more than three times a year. Membership of this commission must include: a chairman, to be selected by membership; a superintendent of local school districts and/or assistant superintendent with consideration for all geographic regions and avoiding duplication from any one district; a supervisor and/or director of general curriculum at local school district level; three teacher leaders of mentally retarded, one from a private school or hospital setting; two directors of special education from local school districts or regional cooperative programs; a local school district school psychologist to be selected from their own professional organization; a teaching supervisor or coordinator of curriculum for the mentally retarded with total district representative; a director of associate instructional materials centers to be selected by their own professional group; a specialist in mental retardation from teacher training program to be appointed by their own administrative organization; a media specialist from local level area vocational-technical school to be selected by the local administrative organization; a lay parent representative of Kansas Association for Retarded Children to be selected by their own local organization; and a representative from preschool education to be selected by the local professional organization. **(L)**

A coordinating council for handicapped children is established to coordinate programs for all handicapped children under age 21. The council is responsible for maintaining a directory of services available for the handicapped in Kansas, distributing information to parents, doctors, and other persons concerning these services; initiating coordinated planning by and between agencies and departments, private associations, organizations, and corporations, and recommending to public and private agencies working with the handicapped need for additional services. The council's membership consists of the director of special education, a representative of the crippled children's commission, the director of the division of maternal and child health of the state department of health, the director of child welfare services of the state department of social welfare, the coordinator of children's services of the division of institutional management of the state department of social welfare, the director of the state division of vocational rehabilitation of the state department of social welfare, the superintendent of the state school for the deaf, the principal of the state school for the visually handicapped, a representative of the Kansas University rehabilitation unit of the medical center, a representative of the Kansas Association for Mental Health, a representative of the Kansas Cerebral Palsy Association, a representative of the Kansas Association for Retarded Children and a representative of the Kansas Council for Children and Youth. By November 30 of each year, the council will submit a written report of its activities, studies and proposals to the governor. Copies of the reports will also be given to all agencies and organizations having membership on the council and the proper committees of the legislature. **(L)**

FINANCE

In order to obtain reimbursement for the developmentally disabled, districts must apply to the division of special education by July 1 preceding the beginning of the school term for which such reimbursement is sought. **(KSA 72-5345) (L.)**

A fund known as the state education reimbursement fund for developmentally disabled children is created within the state treasury to which all monies will be credited, appropriated, or transferred. The fund will be used to make the state's reimbursement to school districts maintaining classes for the developmentally disabled. **(KSA 72-5348) (L.)**

If the number of developmentally disabled children residing in a district and enrolled in a special class is less than the minimum size set by standards of the board, the class is not eligible for reimbursement unless the school district receives children from another school district in the state for enrollment and attendance in the class until the maximum has been reached, if the school district in which such a child resides applies to the district maintaining the class and agrees to pay the receiving school a tuition in the amount fixed by the governing body of the receiving school district. **(KSA 72-5349) (L.)**

Districts which have maintained classes for the developmentally disabled will receive one-half of actual expenditures made for purchasing special education aids and equipment used exclusively in teaching developmentally disabled children. The maximum additional reimbursement is $25 per child and $100 additional reimbursement for all full-time non-resident pupils enrolled in a special class and up to $800 per special class for non resident pupils. After approval of the claim for district reimbursement by the state superintendent, funds will be drawn from the state education reimbursement fund for developmentally disabled children and paid to the county treasurer. The treasurer will then distribute same to the special education fund, if available, or to the county general fund. **(KSA 72-5350) (L.)**

The school districts may levy a tax not exceeding one mill on all taxable tangible property to create a fund to pay the cost of special education. **(KSA 72-5342) (L.)**

Districts providing services to the home-bound will be reimbursed in the following manner:

1. $3,000 for each full-time teacher of home-bound children with a full-time assignment approved by the division.
2. Part-time teachers will receive $2 an hour for one to five hours of personal instruction per week approved by the division.
3. Actual travel allowances paid by the school district employing the special teacher but not exceeding nine cents per mile or $75 per year per child and one-half of the district's expenditures for purchase or rental of special educational aids and equipment, but not exceeding a maximum additional reimbursement of $100 per child per year. **(KSA 72-5356) (L.)**

Districts conducting special education classes for exceptional children will receive reimbursement in the following manner:

1) $2,500 per year per special teacher, but no more than 15 units, will be reimbursed in any one congressional district, no more than four special teachers from any one school district; 2) $2,000 per year per special teacher for teachers in excess of 15 in any one congressional district or an excess of four in any one school district; 3) if more than one school is serviced by a special teacher, a travel allowance will be paid not exceeding nine cents per mile; 4) $100 for each full-time non-resident pupil in addition to the reimbursement approved by the division up to a maximum reimbursement of $2,400 for cooperative regional programs, and 5) one-half of the actual expenditures made by the school district to purchase a rental of special education aids and equipment but not exceeding $100 per child per year. **(KSA 72-5362) (L.)**

Reimbursement is as follows for a learning disabilities program: $2,500 per school year for each teaching unit is the basic unit reimbursement; part time teaching is not reimbursable, and selection of children for special program placement must meet Special Education Section standards. Teacher must hold a teaching certificate valid in Kansas, and in addition have completed or be in process of completing an approved specialized training program. Space, equipment, and furnishings of special program facilities must meet adopted special education standards. **(L.)**

There is a $100 additional reimbursement for each full-time non-resident pupil to a maximum additional reimbursement of $800 per year. **(L.)**

The amount to be spent in special education supplies and equipment is one-half of actual expenditures made by the district but is not to exceed a maximum additional reimbursement of $25 per child per school year. (Enrollment counted as of October 15 of each year.) (L.)

Transportation of resident and non-resident pupils may be paid by either the receiving or the sending district, or cost of room and board in lieu of transportation may be paid by sending district. Reimbursement will be made for one-half of actual expenses incurred up to a maximum reimbursement of $250 per child per school year. **(L.)**

Tuition may be charged at a reasonable rate for non-resident pupils. The tuition rate charged is subject to approval by the Special Education Section. **(See KSA 72-5349 and KSA 72-5363, as amended in 1967.) (L.)**

Reimbursement is as follows for hearing impaired (including deaf) and speech correction and language development programs.

The basic reimbursement is $2,000 per school year for each teaching unit, excluding physically limited.

Special program must meet Special Education Section standards.

Specialist must hold teaching certificate valid in Kansas, and in addition have completed or be in the process of completing an approved specialized training program in their respective area.

Case loads must meet specified standards. (L.)

For non-resident itinerant program there is a $100 additional reimbursement for each full-time non-resident pupil, or the equivalent thereof in part-time pupils, up to an additional reimbursement of $2,400 per year per program.

If ½ or more time spent outside sponsoring school: $2,400
If ⅜ time spent outside sponsoring school: $1,800
If ¼ time spent outside sponsoring school: $1,200
If ⅛ time spent outside sponsoring school: $600

Further fractional rates will be made if claimed.

Non-resident reimbursement for itinerant programs is made in addition to basic unit reimbursement for full time programs. (L)

Actual amounts are paid for travel for itinerant programs by the local district for travel in connection with assigned duties, not to exceed 7¢ per mile of travel schedules approved by the special education supervisor. (L)

Any school district or county board of education which has maintained an approved program of special education is entitled to receive reimbursement for the excess costs of the instruction of pupils in the regular curriculum of the district, or if the program of special education is established by the county board of education, the average cost of the instruction of the pupils in the participating districts is determined in the following manner. Cost of instruction of all pupils exclusive of those in special education is determined on a pupil basis, the excess of cost per pupil in special education shall be the difference between the cost per pupil of all children exclusive of those in special education and the cost per pupil in special education. (L)

Initial legislation in 1953, followed by broadened provisions in 1961, describes the authorization for reimbursement to schools for one half the amount spent during the school year for supplies and equipment up to a maximum formula for all special education programs. Reimbursement is granted only for supplies and equipment which are used exclusively in special education programs and have been paid for during the school year in which reimbursement is being claimed. While itemized claims are not required by the Special Education Section, accurate records should be kept by local school districts for auditing purposes. (L)

Since supplies and equipment may be used in a variety of ways, most instructional aids are appropriate for use in more than one program area. The following items are reimbursable in any special program if they help meet the needs of the exceptional children being served. Those supplies and equipment which are specific to certain program areas are listed separately.

Reimbursable items for all program areas are: book shelves (portable) and library book carts; filing cabinets; study carrels, room dividers, or screens; arts and crafts equipment: looms; kilns; easels; molds, etc.; audio-visual equipment: 8mm, 16mm, filmstrip, slide, opaque, and overhead projectors, projection screens, tape recorders, videotape recorders and/or monitors, etc.; calculators and other office machines, e.g. dictating equipment, duplicating machine; cameras and film processing equipment; chalkboards or flannel boards (portable); daily-living equipment: kitchen and appliances, sewing machines, washers, dryers, furniture, etc.; electronic kits, gardening and farm equipment, tools and light machinery; listening center equipment: earphones and jackboxes; maps and globes; motor-coordination equipment: balance boards and beams; large and small manipulative materials, gym scooters, exercise bars, etc.; musical instruments: piano, rhythm instruments-ukelele, autoharp, etc.; one-way viewing room; science equipment: e.g. science kits, aquariums, microscopic and magnifying devices, window boxes, pet cages, biological models; shop and mechanical equipment: tools and light machinery; teaching machines for individual instruction; typewriters, electrical or manual; arts and crafts supplies; audio-visual software: films, filmstrips, audio tapes, transparencies, slides, records, etc.; audio-visual supplies: transparency film, photographic supplies, magnetic tape, etc.; books, supplementary texts, library books, reference books, large print books (texts adopted by the local districts are not reimbursable); creative drama supplies, costumes, puppets, masks, toy furniture, etc.; daily living supplies: cooking supplies, dishes, sewing supplies, cleaning supplies, laundry supplies, etc.; educational games and toys; evaluation tools: tests, performance scales, stop watch, record forms, diagnostic forms (reimbursement for individual psychometric testing materials is restricted to school psychology programs); instructional aids: phonics cards, reading charts, geometric forms, number lines, peg boards and pegs, language development materials, science charts, etc.; magazine and newspaper subscriptions; shop supplies: paint, nails, lumber, small tools, sandpaper, etc.; tactile learning aids: embossed or relief maps and globes, cut out of textured letters and pictures, models, etc.; curriculum guides; professional literature, teacher manuals and single copies of workbooks for use as source of ideas; and reprint and pamphlets for distribution to teachers, parents, and lay groups.

Reimbursable items for the hearing impaired and deaf are: acoustical treatment of room; audiometer, clinical or portable, individual or group; auditory training unit, and repair and maintenance of equipment.

The board of education of a school district may also comply with the mandate by contracting with any accredited private nonprofit corporation within or without the state which has proper facilities for the education of such students, if there are no public schools in the state with the necessary facilities which will accept such students. Prior to the time any school district enters into a contract with any private nonprofit corporation for the education of any developmentally disabled student the curriculum provided by such school and the contract shall be approved by the state board. The contract shall provide that such school district agrees to pay to the private nonprofit corporation as part of the cost of educating such students an amount for the school year not to exceed a maximum of three times the school district per pupil operating cost in the preceding school year. If the attendance of such student at such school is for less than a school year, then the contract shall provide for such lesser amount prorated on a monthly basis. Whenever a student is educated by a private nonprofit corporation under the provision of this section, such student shall be considered a pupil or student of the school district contracting for such education hereunder to the same extent as other pupils and students of such school districts for the purpose of determining entitlements and participation in all state, county, and other financial assistance or payments to such school district. In individually contracted cases, approval for reimbursement shall be made on a pro-rated basis in accordance with standards prescribed by the state board. (KSA 72-933)(L)

Special mill levies may be used to finance any portion of programs for developmentally disabled children where authorized.

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If there are not enough children of any one special type in the school district to establish a special class, the children may be instructed in any nearby school district in which classes have been established by agreement of the governing bodies of the school districts and payment of tuition. **(L)**

School districts may enter into agreements with one or more other school districts for joint or cooperative programs for exceptional children and shall do so when suitable arrangements can be made offering programs which make available the facilities and personnel to be used for optimum public benefit. **(L)**

Governing bodies of school districts may provide special education programs for developmentally disabled children through cooperative agreement, if such agreements are approved. **(L)**

Whenever exceptional children are given special instruction, the governing body of the district of residence of the children may pay the tuition at approved rates and cost of transporting the children to and from school, or in lieu of paying the cost of transportation may pay the cost of room and board. This does not prevent a district providing special education classes from furnishing transportation in its own school bus to such children without cost to the school district in which the children reside. Expenses incurred for transportation may be paid by the school district from its general fund. A district incurring transportation expenses at the approval of the division is entitled to reimbursement for one-half of the actual expenses up to a maximum reimbursement for transportation and maintenance of $250 per child. **(L)**

Boards of education and governing bodies of two or more school districts who enter into agreements to provide for cooperative programs may do so on a shared cost basis. The agreement may also provide for the establishment of an expenditure from a separate fund. All districts will remit their contract obligations to the fund. **(L)**

SERVICES

" 'Special class' means a school, class or program: (1) established by a school district for special education of developmentally disabled children; (2) having enrollment that meets standards set by the state board; (3) for which a separate classroom is provided by the district; (4) for which full-time instruction is provided by a certified teacher with qualifications approved by the state board; and (5) having curriculum, facilities, equipment and supervision which the director shall find sufficient for the purpose of giving adequate instruction to the pupils enrolled." **(KSA 72-5344) (L)**

The school district of residence of a child will pay all cost of transporting the child to and from the school attended, regardless of whether it is from the district of residence, or the cost of room and board for the child at the place where the school attended is located. Districts who admit non-resident children may provide transportation or pay all or part of the cost of transporting the children. **(KSA 72-5351) (L)**

"The governing body of any school district may prescribe the use of such other aids to special education as physical therapy, corrective gymnastics, rest periods, warm lunches, social counseling, and vocational counseling and training. The governing board of any body of any school district providing for exceptional children shall employ qualified teachers, certified by the authority provided by law as teachers for children receiving such special education." **(KSA 72-5337) (L)**

The state department of public instruction may send children who are both deaf and blind or otherwise severely handicapped to any facility, school, or institution, within or without the state, to provide a qualified program of education for such children. The funds may be spent for evaluation, diagnosis, room, board, tuition, transportation, and any other necessary items. **(KSA 72-5368A) (L)**

"Special instruction means instruction or a special teacher approved for the special education of exceptional children and for which instruction or a special teacher approved by the division has been employed by sponsoring district to give such instruction." **(KSA 72-5360) (L)**

Expenses incurred by districts for transportation may be paid by the school district from its general transportation fund or special education fund or from two or more of these funds. Districts providing approved transportation will be entitled to reimbursement from the state for one-half of the actual expenses but not exceeding a maximum reimbursement for transportation, or maintenance in lieu of transportation, of $250 per child per year. **(KSA 72-5351) (L)**

Class Size:	Number of Pupils Minimum	 Maximum
Speech Handicapped		
Speech Therapist (Weekly Caseload)	75	100**(R)**

Transportation is provided for examination by an educational clinical team; for resident or non-resident children in school district and cooperative programs; and of deaf-blind and other severely handicapped children to a public or private program within or without the state. Transportation for speech therapy is permissable but should be avoided when possible. **(L)**

The state department of public instruction provides funds for sending deaf-blind or otherwise severely handicapped children to facilities, schools or institutions. **(L)**

The school speech therapy program is designed to serve 75 children with speech problems. The speech clinician is most often an itinerant teacher, moving from building to building within the district. In each building he meets those children who need therapy.

The speech clinician is responsible for scheduling. The clinician decides if children are to be met individually or in groups. **(R)**

The speech clinician teaching in Kansas schools reimbursed by the Division of Special Education has met high requirements for training and professional competencies. His professional training qualifies the therapist to take the responsibility of grouping children, establishing case load, diagnosing children, and scheduling. In these administrative and professional decisions the therapist is responsible to the superintendent of schools or the person in charge of special education. He may and should be expected to justify his decisions on the basis of sound professional rationale. **(R)**

BEST COPY AVAILABLE

Class Size:

	NUMBER OF PUPILS	
	Minimum	Maximum
EDUCABLE MENTALLY HANDICAPPED		
Special Class (age spread 3 years or greater)	–	15
Special Class (age spread 2 years)	–	16
Special Class (age spread 1 year)	–	17
TRAINABLE MENTALLY HANDICAPPED		
Special Class	5	9
SPEECH HANDICAPPED		
Speech Therapist (weekly caseload)	75	100
PHYSICALLY HANDICAPPED		
Home or hospital instruction (weekly caseload)	5	15
Homebound instruction by full time regular class teacher (weekly caseload)	–	2

PRIVATE

Deaf-blind, severely handicapped, and developmentally disabled children are eligible for placement. **(R)**

Developmentally disabled children are eligible if no public school program within the state has the necessary facilities that will accept the student. **(R)**

The division of special education determines the proper placement of deaf-blind and otherwise severely handicapped children in coordination with other state agencies. **(R)**

The school district of an eligible developmentally disabled child contracts with a private corporation subject to state board of education approval. **(R)**

The state pays the total amount of tuition, transportation, room, board, diagnosis, evaluation, and other items necessarily relevant to the education of a deaf-blind or otherwise severely handicapped child. **(R)**

The sending school district contracts to pay the cost of educating the child, not exceeding an amount equal to three times the amount the school district expended per pupil for operating costs in the previous school year. State reimbursement for the developmentally disabled is the same as for public school special education programs. **(R)**

For all three types of children placements may be approved in schools both in and out of the state. **(R)**

The private school must provide a "qualified program" for deaf-blind or severely handicapped children. **(R)**

The private corporation providing services to the developmentally disabled must be nonprofit, and prior approval of the state board of the curriculum and contract is necessary. **(R)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Three-Year Elementary (Certificate No. 4)

valid K - 9: bachelor's degree, general education (50), professional education (19), student teaching (5), elementary education (15)

Eligibility for Secondary Three-Year Certificate (Certificate No. 5)

valid grades 7 - 12: bachelor's degree, general education (50), professional education (15), student teaching (5), special education (18-60)

Eligibility for Certification in Special Education

hold Certificate No. 4 or No. 5 plus student teaching in level of special education desired

FACILITIES

The speech therapist needs an efficient work space, good therapy facilities, and an attractive place for child, parent and teacher visits. **(R)**

STATE PROFILE

KENTUCKY

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

KENT[illegible]

RIGHT TO AN EDUCATION

Constitution: "The general assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the state." (Sec. 183, Ky. Const.) (L)

Compulsory Attendance Law: The board of education in the district of residence shall exempt from the compulsory attendance requirements any child of school age whose physical or mental condition prevents or renders inadvisable attendance at school or application to study. Before an exemption is granted, the board must receive evidence from the parents in the form of a statement of a licensed physician or public health officer that the condition of the child prevents or renders inadvisable attendance at school or application to study. (Sec. 159.030 KRS) (L)

If school districts operate schools for the education of blind or deaf children, children between the ages of seven and 16 whose mental condition is fit for application to study will be compelled to attend such school continuously for the full term or until discharged by the board of education. If no provision is made for the education of these children by their school district [illegible] the Superintendent of Public Instruction, upon recommendation of the state director of pupil personnel [illegible], may have the child enrolled in one of the state institutions for education. (Sec. 159.050 KRS) (L)

Persons having custody of a [illegible] deaf child between the ages of seven and 16 must have the child attend some public, private or parochial school or an institution in which deaf children are taught for the full term each year, unless the child is being given equivalent instruction at home. If the child's physical or mental condition is such that he [illegible] from school, he is exempt from the compulsory attendance requirements for the deaf. (Sec. 167.090 and 167.100 KRS) (L)

If the school in the state [illegible] deaf are filled to capacity and there is no other means of providing appropriate services, such children are exempt from the compulsory requirements. (Sec. 167.120 KRS) (L)

Responsibilities: If [illegible] trainable mentally handicapped children in a school district wish to have special education [illegible] school boards of any school district shall establish such classes in accordance with state [illegible]. School boards of any school district may establish and maintain special education programs for exceptional children who reside in their district. (Sec. 157.230 KRS) (L)

By July 1, 1974 all county and independent boards of education must operate special education programs to the extent required by the plan [illegible] boards of education, considering the recommendations of the state task force and [illegible] coordinating commission. If any county or independent school board of education fails to operate and implement special education programs in accordance with the plan, the application of the county and independent board of education for minimum foundation payments may be considered insufficient. (Sec. 157.224 KRS) (L)

A local Board of Education has the right to exclude from school a 16-year old boy, certified by the County Health Department as having very low mentality who has never before attended school. The boy was refused admittance on the basis that the school could not offer him anything to improve his mental condition. KRS 159.010 says that all children between seven and sixteen must attend school, except those falling under KRS 159.030, which allows those children "whose physical or mental condition prevents or renders inadvisable attendance at school or application to study . . . ." Since the boy was 16 and the County Health Department certified the boy's mental condition as making school attendance inadvisable, the school could legally exclude him. (Op. Att'y. Gen., Feb. 11, 1957)

Blind children of compulsory school age residing in a district which has schools for the blind must attend. In those districts without schools for the blind, the Superintendent of Public Instruction may require a blind student to enroll in a State institution for his education. (Op. Att'y. Gen., Oct. 30, 1961)

In *Kentucky Association for Retarded Children v. Kentucky State Board of Education*, nine children with varying degrees of retardation, multiple handicaps, physical handicaps, along with immaturity and lack of communication skills are the plaintiffs. The defendants are the Kentucky Board of Education, the state superintendent, and the Fayette County Board of Education and its superintendent. Attorneys allege that plaintiffs have been denied education suitable for their condition in public schools of Kentucky, either through exclusion or placement in inappropriate programs. Due process for plaintiffs has been ignored in exclusion procedures. It is sought that the court issue the following: (1) declaratory judgments that public education be available to all children; (2) permanent injunction requiring state to develop plan for special education in order to be eligible for state funds and establish hearing and review procedures. The case was filed September 6, 197[illegible] and is pending. (Lawsuit)

POPULATION

Definitions: "'Exceptional children' means children who differ in one or more respects from average or normal children in physical, mental, emotional, or social characteristics and in ability in such a degree that it is impractical or impossible for them to benefit from or participate in, the regular or usual full-time classroom programs of the public schools in the district in which they reside. These children's educational needs require a modification of the usual classroom program in order for them to attain the maximum abilities and capabilities. These children include, but are not limited to, those children hereafter described in Section 157.200 as well as the neurologically impaired, the intellectually gifted, the emotionally disturbed, the functionally retarded, children with learning disabilities, communication disorders and those children who are multiply handicapped.

"'Physically handicapped children' means children, other than those with a speech defect, of sound mind, who suffer from any physical disability making it impracticable or impossible for them to benefit from, or participate in a normal classroom program of the public school in the school district in which they reside and whose intellectual development is such that they are capable of being educated through a modified educational program.

"'Speech defective children' means children whose speech has been diagnosed by a speech correctionist as deviating or different from average or normal speech, to the extent of hindering adequate communication and requiring specialized instruction for improvement or correction of the handicap.

"'Educable mentally handicapped children' means children, who because of retarded intellectual development, as determined by recognized standardized tests are incapable of being educated profitably and efficiently through ordinary classroom instruction, but whose intellectual ability would indicate a degree of scholastic attainment with the benefit of special educational methods, materials and facilities.

"'Trainable mentally handicapped children' are mentally handicapped children who, because of retarded intellectual development, are incapable of being educated properly and efficiently through ordinary classroom instruction, or special education facilities for educable mentally handicapped children, but who may be expected to benefit from training in a group setting in trying to further their social adjustment and economic usefulness."

"'Children with learning disabilities' are those children who have a disorder in one or more basic psychological processes involved in understanding or using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. Such terms do not include children who have learning problems, which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, emotional disturbance or environmental disadvantage." **(Sec. 157.200 KRS) (L)**

"'Hard of hearing children' are those children who are able to understand speech and language but whose hearing is not sufficient to enable them to learn adequately in a regular school class even with the assistance of a speech correctionist. These children generally have a hearing loss of from 40-70 decibels in the better ear." **(R)**

"'Deaf children' are those children whose hearing loss is so severe that they are unable to comprehend and learn speech and language even though hearing aids may be useful to some of them. These children generally have a hearing loss of 70 decibels or more in both ears." **(R)**

Age of Eligibility: Exceptional children may receive services from birth through age 21. **(Sec. 157.200 KRS) (L)**

Funds authorized by the Legislature for the education of handicapped children may be paid for children under six years of age. **(Op. Att'y. Gen., May 10, 1972)**

IDENTIFICATION, ASSESSMENT AND PLACEMENT

Census. The director of pupil personnel services in each school district is required to annually discover all children within his district who are handicapped and report their names to the department of education. This survey must include children of school age who are not enrolled in school as well as enrolled children. (L) CL)

Group and individual testing, teacher referrals, nurse referrals, parent referrals, and community organizations' and agencies' records should be reviewed. (R)

Those children identified through the survey should be examined by appropriate professional examiners. Reports of examination should be kept on file in the local school district. (R)

Screening. The beginning of any speech correction program starts with the task of locating the speech handicapped children who will be enrolled in the program. In Kentucky, this is frequently handled through a survey that is conducted by the Division of Special Education, State Department of Education. However, when the program is initiated without this survey, then it becomes the speech correctionist's responsibility to arrange a survey or screening method. Depending on the size of the local school district concerned, it is suggested that the screening follow one of three methods: (1) if the district is small, screen each child enrolled in elementary school; (2) if the district is large, conduct individual screening of all children in designated grades and have classroom teachers refer children suspected of speech difficulties; and (3) a combination of screening and referral in which the speech correctionist screens all children in certain grades in the classroom and accepts referrals from the grades not screened. The speech correctionist can make his own selection of testing materials for the speech screening; however, in doing so he should try to choose material that is short but varied enough to elicit the three main types of speech problems: articulation, rhythm, and voice.

Assessment and Placement. Physically handicapped children, before entering into special classes, must be certified by competent and qualified examiners as approved by the state superintendent of public instruction. **(Sec. 157.240 KRS)(L)**

The following are screening considerations for the hard of hearing:

1. Has the child had an individual audiometric test?
2. Does the child have a hearing loss of from 30 to 70 decibels in the speech range in the better ear?
3. Has the child been examined by an ear specialist? Will medical treatment improve the hearing loss and/or prevent further loss? If so, is the treatment being carried out?
4. Has the child had a hearing aid evaluation? Is a hearing aid recommended? If so, does the child have a hearing aid and does he use it properly?
5. Can the child remain in the regular class with special help from the speech correctionist or should he be placed in a special class for the hard of hearing in order for him to progress satisfactorily? and
6. Is the attitude of the regular classroom teacher such that he is willing to learn, understand and be helpful to the hard of hearing child if the child remains in the class?

Screening considerations for the learning disabled include:

1. Lower performance on group tests (intelligence and achievement) and daily classroom activities which require reading.
2. Academic achievement low in some areas, high in others.
3. Test performance may be characterized by spotty or patchy *intellectual* deficits on *individually* administered tests.
4. Variability in performance from day to day or even hour to hour in academic achievement or adjustment.
5. Deficits in abstract reasoning.
6. General deficit in attending behavior as characterized by inability to concentrate, short attention span, hyperactivity or hypoactivity.
7. Language processing and/or communication disorders.
8. General clumsiness or awkwardness.
9. Verbal or motor perseveration.
10. Behavior often inappropriate for situation, and consequences apparently not foreseen.
11. Inappropriate adjustment to environmental changes.
12. Inappropriate judgment in social and interpersonal situations.
13. Inability to see cause and effect relationships.
14. Impulsivity or lability of mood.

All reports and records shall be reviewed by an Admission and Release Committee established by the local school district. No pupil shall be placed in any of the special programs without the recommendation of this

Committee or the person designated by the superintendent to be responsible for the special education program. (R)

After the screening process has been completed, the speech correctionist should re-examine all children found to have some degree of speech difficulty. This re-testing should be thorough and detailed as it will form the basis for deciding if the children need to be enrolled in the speech correction program. The speech correctionist will need to conduct a diagnostic speech evaluation including an evaluation of the speech structures and audiometric evaluation. Information concerning case history, educational history, psychological examination, and physical examination should be obtained for each pupil requiring re-examination. Besides providing the speech correctionist with information for making a diagnostic evaluation of the speech problems, this detailed information will offer the speech correctionist a basis for selecting the children for the program. (G)

After the speech correctionist has determined which children in the school district have speech problems, he may find that the enrollment is too large for one person to handle. Therefore, he must make a decision as to which children should be referred to a speech clinic, which children should be referred to other agencies (audiology and psychology clinics, etc.) and which children should be taken care of through a speech improvement program in the regular classroom.

An admission and release committee determines admission and release of children to and from special education programs. This committee may function in a group setting or by any other coordinated plan and should be made up of the following: (1) the superintendent and/or local supervisor of special education, (2) building principal, (3) a psychologist and/or guidance counselor, (4) special education teacher and the classroom teacher who last had the child enrolled, and (5) other professional persons concerned with the class of the individual child. (R)

Handicap	Professional Examiner	Possible Placement
Deaf	Otologist, Otolaryngologist, Audiologist	Special class of deaf in elementary and/or secondary school
Educable Mentally Handicapped		Special class, resource room, itinerant program in elementary and/or secondary school
Hard of Hearing	Otologist, Otolaryngologist, Audiologist	Special class in elementary and/or secondary school
Learning Disabled	Physician, Neurologist, Psychologist	Special class, resource room, itinerant program in elementary and/or secondary school
Speech Handicapped	Speech Correctionist, Speech Pathologist	Regular and/or special class with provision for speech correction
Trainable Mentally Handicapped		Special class in elementary school or other approved facilities

Children placed in special classes for the learning disabled should have normal or above normal intelligence; if limitation of class size is a major consideration preference should be given to children of higher intelligence. (G)

Placement of a child in a special class for the hard of hearing should be made only when he has had a complete audiometric evaluation by an approved audiologist.

The child's hearing loss is of such severity that he is unable to function adequately in a regular class with the help of a speech correctionist. The generally accepted criteria for such placement is a hearing loss of from 30 to 70 decibels in the better ear after all possible aid or correction.

The child's intellectual ability allows him to profit from this special class placement. (R)

After initial placement, pupils should be periodically evaluated and their progress recorded.

Each pupil should receive a reevaluation within two years following initial placement. This may include tests administered for initial placement as well as other such tests as recommended by appropriate school authorities.

At any time during the pupil's enrollment, consideration shall be given to reassignment to other appropriate programs. (R)

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ADMINISTRATIVE RESPONSIBILITY

The department of education is the agency for cooperation with state and federally approved treatment centers and local schools for carrying out the provisions for special education. (Sec. 157.220 KRS)(L)

A bureau of education for exceptional children in the state department supervises and directs the state program for exceptional children. Within the bureau, the state board must establish appropriate divisions including, but not limited to, the following: [illegible] mental retardation, physically handicapped, intellectually gifted, and emotionally disturbed. (Sec. 157.221 KRS)(L)

The superintendent will appoint an assistant superintendent of public instruction and the necessary supervisors to staff the bureau. The assistant superintendent must have a master's degree in education, with an emphasis in one or more areas of exceptionality and experience in special education. (Sec. 157.221 KRS)(L)

The bureau will recommend rules and regulations to the state board for adoption. The state board of education will make necessary rules and regulations for the proper administration of the special education program including, but not limited to, the [illegible] eligibility and admission of pupils, curriculum, class size limitations, housing, special equipment, and instructional supplies. (Sec. 157.220 KRS)(L)

In addition to the two supervisors [illegible] mentally retarded, shall employ two supervisors [illegible] exceptional children. (Sec. 157.295 KRS)(L)

[illegible] is for the [illegible] education. (Sec. 167.015 and 156.140 and .010 KRS)(L)

The local school district is charged with the primary responsibility for the direction and maintenance of its speech correction program. The overall effectiveness of the local speech correction program depends largely upon the leadership and cooperation of the local school administrators. (R)

PLANNING

By July 1, 1973, all county and independent boards of education shall operate special education programs [illegible] the system required by [illegible] consideration to the [illegible] programs in accordance [illegible] education for [illegible] (L)

The state bureau [illegible] follow in implementation of KRS 157.224 [illegible] the development [illegible] children for the period of July 1, 1970 to June 30, 1973. The superintendent of public instruction will submit such plans to the state board of education for approval no later than [illegible] (R)

FINANCE

One classroom unit shall be included upon the employment of each teacher approved to instruct exceptional children [illegible] (Sec. 157.360, 7 KRS)(L)

[illegible] (Sec. 157.360 KRS)(L)

[illegible] (Sec. 157.2[illegible] KRS)(L)

[illegible] KRS 157.200 to KRS 157.280 (L)

[illegible] tape recorders, equipment [illegible] speech [illegible] Uniform School Financial Accounting [illegible] Department bulletin. (R)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

[illegible] (L)

[illegible] transportation [illegible]

The education of [illegible] children [illegible] becomes the responsibility of the County Board of Education in which the institution is located. (Op. Att'y Gen. Sept. 30, 1957) [illegible] public schools [illegible] (See 157.200 KRS(1).)

[illegible] (See 157.200 KRS(1).)

[illegible] (See 157.230 KRS(1).)

[illegible]
(See 157.230 KRS(1).)

[illegible] program [illegible]

these children. [illegible]
(157.250; 157.240 KRS(1).)

[illegible] (See 157.370 KRS(1).)

[illegible]

[illegible] the following plans [illegible]

[illegible] (R)

[illegible] (R)

[illegible] (R)

[illegible] learning disabilities [illegible]

[illegible] in districts [illegible] pupils to justify [illegible] (R)

[illegible] transportation [illegible]

It is [illegible] a school [illegible] private agencies [illegible] Board of [illegible] children [illegible]
(Op. Att'y Gen., May 3, 1972)

KRS 157.360(1), KRS 157.360 [illegible] (3) as amended by S.B. [illegible] teaching exceptional children. In the Appropriations Act [illegible] for each teacher hired for teaching exceptional children [illegible] the number of classroom units [illegible]. This number proved to be too small [illegible]. It was the Attorney's General opinion [illegible] School Foundation Program [illegible] (Op. Att'y Gen. July 24, 1972)

[illegible] health board [illegible] must comply with requirements under KRS [illegible] considered a kindergarten or nursery school [illegible]
(Op. Att'y Gen. July 27, 1967)

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Special [illegible] special schools, special classes, and special instruction [illegible] education [illegible] of the Superintendent of Public Instruction (KRS 157.200(1)(f)).

The [illegible] school building centrally located in the school district [illegible]

transportation [illegible] maximum number of children. Classrooms should be at least as large as [illegible] for regular [illegible] of the building. There should be proper room exposure [illegible] and enhance speech (lip) reading. [illegible] flasher" rather than a sound [illegible]

[illegible] well suited around the room to accommodate special [illegible] A [illegible] is a necessity. Classrooms for special [illegible] should be sufficiently large to provide for ... [illegible]

A [illegible] in which the speech correction program [illegible] The [illegible] relatively quiet, well lighted, ventilated and heated [illegible] Sufficient storage space should be provided [illegible]

A [illegible] to comfortably accommodate six children and [illegible] electrical equipment and have sufficient [illegible] should be provided for materials. The unit should [illegible] It should have adequate blackboard and [illegible] space [illegible] essential. (G)

Class Size

	Number of Pupils	
	Minimum	Maximum
SPEECH HANDICAPPED		
Itinerant Program (Speech Correction)	75	100
LEARNING DISABLED		
Special Class (Self-Contained) (Improved)		
Preschool or Elementary	6	[illegible]
Junior High	6	[illegible]
Resource or Itinerant	6	20
HEARING HANDICAPPED	8	12
Special Class (Hard of Hearing)	10	[illegible]
DEAF		
Special Class	8	12
TRAINABLE MENTALLY HANDICAPPED		
Special Class	6	[illegible]
PHYSICALLY HANDICAPPED		
Special Class	8	[illegible]
Home Instruction [illegible]	8	[illegible]
Hospital Instruction	8	[illegible]
EMOTIONALLY DISTURBED		
Special Class	6	10
MULTIPLE HANDICAPPED		
VISUALLY HANDICAPPED		
Special Class	5	10
Cooperative Class	5	10
Resource Class	5	10
[illegible] Teacher	5	10
BLIND		
Resource Room	5	10
[illegible]	5	10
[illegible]	[illegible]	10
Special [illegible]	5	10
EDUCABLE MENTALLY HANDICAPPED		
Special Class	15	[illegible]

[illegible] approved

[illegible] (R)

[illegible] combination of deafness and blindness prevents [illegible] the deaf child or the blind child. (R)

[illegible] the amount, the advisability of private school placement. (R)

The state [illegible] any available funds for evaluation and diagnostic [illegible] (R)

[illegible] state of Kentucky. (R)

[illegible] exceptional children, and until such time [illegible] local board [illegible] instruction and facilities for exceptional children [illegible] instruction and facilities for exceptional children [illegible] (1970 H 209, eff. 6-18-70; 1960 c 107) (L)

To qualify [illegible] a private school shall:

1. Submit [illegible] with its application for such qualification the names [illegible] school. The state board of education may approve or disapprove [illegible] may appoint any additional members it deems advisable.
2. Submit [illegible] now being provided, the qualifications of the [illegible]. The state board of education may approve or [illegible] it may make its approval conditional [illegible] deems advisable.
3. [illegible] school for exceptional children, the state board of education [illegible] of public instruction may allow [illegible] average daily attendance provided that such school [illegible] the state board of education for schools qualifying under [illegible]

(1970 H 209, eff. 6-18-70; 1960 c 107) (L)

Senate Bill [illegible] Session of the General Assembly appropriates State Funds to the State Board of Education [illegible] private schools that "qualify as state schools for exceptional children." This Act [illegible] issues, one being the use of public funds to support private or sectarian schools. The Attorney General felt he should not resolve the question because of the constitutional issues and the [illegible] involved. He recommended that the matter be submitted in court in the form of an "agreed [illegible]" between the Department of Education and the Department of Finance." (Op. Att'y Gen., June 13, 1960)

[Note: The Court of Appeals [illegible] the constitutionality of the Act in *Butler v. United Cerebral Palsy of No. Ky., Inc.* Ky., [illegible]]

Local boards [illegible] a portion of the cost incurred by either private or quasi-private school [illegible] classes for exceptional children." This would include [illegible] transportation [illegible] (Op. Att'y Gen., Feb. 4, 1972) See also Services.

The question [illegible] the Attorney General whether it was legal for a local board of education to pay [illegible] who needs "special care." It was the Attorney's General opinion that [illegible] an exceptional or handicapped child as defined by KRS Chapter [illegible] Superintendent of Public Instruction as provided by KRS [illegible] the Board [illegible] contract with a private institution for the appropriate educational services." (Op. Att'y Gen., August 25, 1972)

[illegible] the Attorney General was asked whether a school system could [illegible] ADA [illegible] school to educate handicapped children diagnosed as [illegible]. The Attorney General [illegible] are included under "children with learning disabilities" [illegible] they were [illegible] ADA [illegible] Since the State Board of Education reimburses [illegible] the [illegible] exceptional child, the difference may be made up [illegible] (Op. Att'y Gen., Nov. 6, 1972)

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Provisional Elementary Grades 1 - 8 (Certificate No. 4)

bachelor's degree including general education (45), preprofessional education (12-18), professional education [illegible] student teaching (8)

Eligibility for Provisional High School Grades 7 - 12 (Certificate No. 6)

bachelor's degree (same as certificate no. 4) minimum specialization, one major (30) or combination [illegible]

Provisional Certification in Special Education (Certificate No. 10)

bachelor's degree, same as for certificate no. 4 or 6, specialization (12-30) depending on specialty

Standard Certification in Special Education

[illegible] certificate no. 10, master's degree including 9 hours in professional education and [illegible]

FACILITIES

Statistics [illegible] on the handicapped in this area

STATE PROFILE

LOUISIANA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The educational system of the state shall consist of all free public schools and all institutions of higher learning supported in whole or in part by appropriation of public funds. . ." **(Art. XII, Sec. 7, La. Const.) (L)**

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to the compulsory attendance requirements.

Children who are mentally, physically, or emotionally incapable of performing school duties and children unable to profit from further school experience are exempt from these requirements. These exemptions must be certified in writing by a psychiatrist, psychologist, recognized evaluation center, clinic, or other professionally qualified person or agency designated by a parish or city school board. **(LRS 17:221-226) (L)**

Every parent, tutor, or person having control of a mentally or physically deficient child must enforce his attendance at a special school or class if the programs have been provided by a state, parish, or city school board. This provision applies to blind, deaf, and spastic children when the special schools have available space and facilities for their training and when they meet the entrance requirements. **(LRS 17:234) (L)**

Policy: "It is hereby declared to be the public policy of the state of Louisiana to develop, encourage, and improve special education and training facilities, services, and classes for crippled, mentally handicapped, and other exceptional children in the public schools in Louisiana in order to minimize insofar as possible the educational or training limitations which result from such handicapping conditions." **(LRS 17:1941) (L)**

Responsibilities: It is and shall be the duty of the various branches and divisions of the public school system of Louisiana, both state and local, to offer the best available educational, learning, and training facilities, services, classes and opportunities to all children of school age within their respective boundaries. This includes all children of school age whether normal, exceptional, crippled, or otherwise either mentally or physically handicapped, and whatever may be the degree of that handicap. **(LRS 17:1941) (L)**

If there are more than five children with any type of handicap or other exceptionalities, the parents or guardians of such children may petition the parish or city board of education to provide special educational service. **(LRS 17:1951) (L)**

The rejection of any such petition shall be subject to court reviews upon petition by the parents or guardians of such children.

In *Lebanks v. Spears*, eight black children classified as mentally retarded have been denied educational opportunities. Orleans Parish (New Orleans) School Board and the superintendent of schools are the defendants. Attorneys allege a violation of due process and equal protection provisions of the 14th amendment and also allege the classification process is arbitrary and discriminated against black children. Injunction is sought to prevent arbitrary and biased classification and exclusion, and to prevent exclusion without a due process hearing. No trial was held. Defendants agreed to a consent order on April 24, 1973, which was effective May 31. Its features are: retarded children have right to education, hearing, and review; persons over 21 have right to training opportunities if denied them as children. The court continues to supervise defendants. (lawsuit)

POPULATION

Definitions: " 'Physically handicapped and mentally handicapped and other exceptional children' means slow learning, educable and trainable mentally retarded; deaf or hard of hearing; speech impaired; blind or partially sighted; emotionally disturbed; cerebral palsied; gifted; children with learning disabilities; crippled, or other health impaired children who by reason thereof require special educational and/or training services and facilities and who have been so diagnosed and recommended by special education centers located in the state colleges and universities or other competent authorities designated by the state department of education pursuant to the rules and regulations of the state board of education." (L)

" 'Deaf children' are children whose sense of hearing is non-functional (after all necessary medical treatment, and/or surgery, and/or use of hearing aids) for understanding normal conversation and whose hearing loss results in a delay in the development of language and/or speech." **(R)**

Hard of hearing children are those "children who have a hearing loss of 20 decibels or more in at least two frequencies in the speech range or a loss of 30 decibels in one frequency in the speech range in the better ear."

"A child with a temporary loss may be considered to have an impairment or considered classified as hard of hearing at the discretion of special education center personnel." **(R)**

Speech impaired children are those "children whose speech deviates so far from the speech of others that it attracts attention, interferes with communication, or causes maladjustment." **(R)**

Age of Eligibility: Children are eligible for special education between ages three and 21. **(LRS 17:1943. See also 17:1944)** (L)

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Assessment and Placement: All state agencies offering services to handicapped and other exceptional children must provide to parish and city school boards and/or the state department of education names and other pertinent facts regarding the proper placement for handicapped or other exceptional children enrolled in or expected to enroll in the public schools. **(LRS 17:1942) (L)**

A teacher who feels a student can benefit from special education classes or special education center evaluation should discuss the case with her principal. If the principal agrees, he should discuss the case with the liaison person and furnish sufficient information to make the referral. **(R)**

Special education centers located in state colleges and universities are designated as the competent authorities for evaluation of handicapped and other exceptional children in the public schools. If a parish or city school system is serviced by one or more special education centers, the centers are designated as the authorities for the psychological and educational diagnosis and evaluation of handicapped and other exceptional children. A personal consultation with the parent or guardian shall be provided. **(L)**

Special Education Evaluation: Special Education Centers located in State colleges and universities diagnose and recommend exceptional children for special class placement. The State Department of Education can approve "other persons or agencies" to also diagnose, evaluate and recommend children for special class placement but thus far no other persons or agencies have been appointed. If a school system is to receive funds for special classes for exceptional children, then the children must be evaluated and recommended for placement by the Special Education Centers. **(Op. Att'y. Gen., Sept. 7, 1967)**

Pupils may be assigned to special classes only upon recommendation of these special education centers or other persons or agencies approved by the state department.

These special education centers may contract with certified mental health centers and clinics or with other certified persons or agencies approved by the state board of education for the evaluation and diagnosis of these exceptional and handicapped children. In parish or city school systems not served by a college or university special education center, pupils may be assigned to special classes or facilities upon the recommendation of authorities approved by the state department. **(LRS Sec 17:1950) (L)**

To be eligible for special education placement, a child must be at least six years of age on or before December 31, after the opening date of school and under 21 as of the same date. **(R)**

Except those diagnosed as being mentally retarded, children must have the intellectual ability to achieve in regular academic programs of the public school. **(R)**

In cases of multiple handicaps, mental retardation must be considered the primary basis for establishing classification. **(R)**

All children must have been recommended for a class by the special education center. **(R)**

All children must be admitted and maintained on a trial basis. If a child fails to show progress, or if physical or mental status deteriorates, he must be re-evaluated to determine continuation in the program. **(R)**

Upon request a written summary statement of the diagnosis and recommendation will be provided to the parent or guardian. He shall have the right to have the child retested by other competent public or private authorities, and, if the retesting justifies, to determine the correct evaluation in the district court or juvenile court of the parish of the child's domicile. **(LRS 17:1943) (L)**

Parish and city school boards shall, upon written demand by the parents or guardians of children having difficulties in normal school classes, have the child diagnosed and evaluated, unless such a diagnosis or evaluation has been made within the past one year. Diagnosis and reevaluation shall be required for each child every three years. **(LRS 17:1943) (L)**

The parents and supervisor of special education services of the parish or city school board may request a reevaluation after six months of enrollment in a special education class. **(LRS 17:1943) (L)**

See Planning.

ADMINISTRATIVE RESPONSIBILITY

The state department of education, with the approval of the state board of education, administers special education programs. The state board of education establishes the necessary rules and regulations, prescribes standards, and approves the conditions under which the facilities are approved for state aid. The state superintendent of education administers the state board regulations. (LRS Sec. 17:1948) (L)

The state department of hospitals is also responsible for making the rules and regulations for the program providing services in private facilities. These regulations must include standards for determining the following:

1. the extent and nature of handicaps and conditions included in the program;
2. the probability that a child in the program will benefit or respond to special services;
3. that a proposed school or facility offers special services which are adequate to the needs of the child in the program;
4. that the special services needed by the child can only be provided by the unique services available in a particular residential facility; and
5. that the required special services cannot be provided by a community day care or out-patient facility geographically accessible to the child or by state maintained and operated residential facilities. (LRS Sec. 40:2125) (L)

PLANNING

A 10-member commission on the mentally and physically handicapped is composed of the director of the state library for the blind and physically handicapped, the commissioner of the mental retardation division of the department of hospitals, the director of the department of health, the commissioner of welfare, the director of special education of the state department of education, three members from the House of Representatives chosen by the speaker, and two members of the Senate chosen by the President. (L)

The commission is charged with the responsibility of coordinating existing programs in the areas of the mentally and physically handicapped and exploring the possibility of consolidation of these programs. In doing so, the commission will work with groups such as the mental retardation planning council and others in an effort to give them assistance and to receive counsel for the implementation of their own plans and recommendations. (L)

An advisory committee, appointed by the state board of education shall have the responsibility to evaluate special education centers, and those persons or agencies designated as competent authority and those applying for recognition as other competent authority. The advisory committee shall make recommendations to the state board for designation as other competent authority. This committee shall be composed of: a psychologist, a social worker, an educational consultant, a speech and hearing consultant, a physician, a special education teacher, a superintendent of schools, one parent consumer, one additional parent, and a member of a parish school board. After the initial appointment, all members of the advisory committee shall have a term of three years. Initially, a psychologist, a social worker, and an educational consultant shall be appointed for a term of one year ending June 30, 1974; a speech and hearing consultant, a physician, and a special education teacher shall be appointed for a two-year term ending June 30, 1975; a superintendent of schools, one parent consumer, one additional parent, and a member of a parish school board shall be appointed for a three-year term ending June 30, 1976.

Vacancies shall be filled only for the unexpired term.

A quorum shall be five (5) of this membership. A majority of those assembled shall make recommendations to the state board of education on applications being considered. An application which is not approved by the state board of education may be reconsidered after one year. Applications acted upon by the advisory committee shall be submitted to the state board for disposition. Each competent authority shall be certified for a three-year period and shall be subject to re-evaluation prior to renewal of their certification. The state board may subject a certified competent authority to re-evaluation at any time during the three-year period of certification.

Annual reports shall be sent to the division of special educational services summarizing services rendered and indicating changes in procedures and/or staff. Special education centers shall be subject to the same evaluations and reports. No committee member may participate in the evaluation of the competency of the center or other competent authority that he or she represents. (R)

FINANCE

All parish and city school board budgets may include salaries, according to the official Louisiana salary schedule, for qualified special education teachers and therapists involved in the teaching and/or training of any one type of "handicapped or other exceptional child." The allotment of teachers is based on the following minimum/maximum pupils per teacher or therapist:

1. slow learner — one teacher per 12 to 18 pupils;
2. educable mentally retarded — one teacher per 10 to 15 pupils;
3. trainable mentally retarded — one teacher per eight to 12 pupils;
4. deaf or hard of hearing — one teacher per eight to 10 pupils;
5. blind or partially sighted — one teacher per eight to 10 pupils;
6. speech impaired — one therapist per 100 pupils;
7. cerebral palsied — one teacher per eight to 10 pupils;
8. emotionally disturbed — one teacher per eight to 10 pupils; and
9. others as determined by the regulations of the state board of education.

If there are fewer than the minimum number of pupils per teacher but not fewer than five, the state allotment is reduced one-tenth for each pupil less than the minimum. (LRS Sec. 17:1946) (L)

Parish and state school agencies are authorized to cooperate with other public and private agencies interested in working for the education and training or evaluation of handicapped and other exceptional children. Parish and state school agencies are authorized to accept gifts or donations of gifts and from these private agencies. (LRS Sec. 17:1948) (L)

Certified teachers of exceptional children employed in the public schools are paid an amount equal to their base pay plus an additional 10 percent. (LRS Sec. 17:427) (L)

Senate and House concurrent resolutions state that department of health, education, and welfare figures show 272,706 handicapped children in Louisiana with 90% of these children receiving no type of treatment or special education. Some 618 handicapped children receive aid through the state's exceptional children's program and 2181 on the waiting list as of May 3, 1971; of 28,000 emotionally disturbed children, 165 are receiving aid. Fees have increased as much as $100 a month in some treatment facilities. The future of handicapped and emotionally disturbed children is of grave importance to the state, and both the future and the productivity of these children are enhanced through programs such as those supported by the exceptional children's act. The legislature resolved that it go on record as favoring assistance to handicapped and emotionally disturbed children at all times to the fullest extent of available funds and supports the concept that budget requests for program assistance to these children should be met. The Senate resolution went further, noting that the fiscal 1971-72 budget does not allow for extension of existing programs or the development of new programs and will allow for the placement of children only as vacancies occur or placement of approximately five children per month. Because a budget cut of $128,000 was made in the approved budget for 1971-72, the Senate resolved that the legislature go on record as favoring assistance to handicapped and emotionally disturbed children as available funds permit and support the concept that budget requests for programs of assistance to these children should be met. (Senate Concurrent Resolution 62 and House Concurrent Resolution #458.) (L)

If the parish or city school board contracts with another district or agency the parish or city school board is authorized to pay tuition or training costs not exceeding the average gross cost for each educable child in the school district plus the pro rata part of the state allotment provided above for serving pupils requiring special education, training, or opportunities. The time of payment may be determined by contract.

No pupil shall be eligible for funds for contract services under this act unless he has been diagnosed and evaluated as eligible to enroll in an appropriate special education class or facility if such were available in his parish or city of residence.

Contracts for the services of the Department of Hospitals shall not be made with regard to any child with an I.Q. above 25 unless other handicaps make him totally unsuitable for special education or training from the public school system of Louisiana; provided, however, that the state board of education may contract with designated certified state mental health centers and clinics for the evaluation and diagnosis of handicapped children for assignment to special education classes. (LRS Sec. 17:1947) (L)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Tuition contracting between adjacent or nearby parish or city school boards to provide special education or training is allowed.

The parish or city school board sending children to another district is authorized to pay tuition or training costs not exceeding its own average gross cost per educable child, plus the prorata part of its state allotment for serving exceptional children. (R)

Whenever best educational or training results can be obtained by assembling special classes of any of the several types of children specified in R.S. 17:1942, the parish and city school boards shall establish and maintain such special educational and/or training facilities and classes for such children. Adjacent and nearby parish and city school boards may pool their resources for this purpose. (LRS 17:1944) (L)

SERVICES

No person, without a valid degree or certificate and without the special training the state superintendent may require, may be employed as a director, supervisor, therapist, or teacher of any special class or school. (LRS Sec. 17:1947) (L)

The House of Representatives passed a resolution urging and requesting local school boards to continue operating all special education classes in the various school buildings in which they are presently located; further requesting the school boards to provide the necessary attention, personnel, and facilities to continue the classes where federal funds are discontinued; and requesting all local boards to insure that all classrooms and other facilities designed and/or equipped to be used as special education classrooms in existing or newly designed buildings not be used for any other purpose. Further, special education classes have been instituted in several parish school systems throughout the state under various federally sponsored programs. These classes were instituted to meet a pressing need to assist the parents of handicapped children to resolve the many difficulties inherent in the education and training for life which these children face in every day living. It is reasonable to assume that the federal government intended the local school systems to continue these worthwhile and necessary services or the classes would not have been organized; it is further the obligation of local school boards to provide for these services or such classes would not have been organized. Further, it is the obligation of local school boards to provide for the education of every child regardless of his special requirements if he is educable. All citizens regardless of their economic or cultural deprivation are entitled to a minimal state supported education for their children including those children with special educational needs. Because state law and state and local regulations provide for financial support for teachers of all educable children and physical facilities in most cases have already been provided through federal funds, the House of Representatives with the Senate concurring resolved "that all local school boards of the state are hereby requested to continue in operation, in the various school buildings in which these classes are presently located, all special education classes." They further resolved "that such local school boards are requested to provide the necessary attention, personnel and facilities to continue such classes and hereby to continue the learning process of the students presently enrolled in such classes when federal financial support is discontinued from said classes." And "all local school boards are requested to continue to use classrooms and other facilities which have been designed for use by special education students for such purposes only." (House Concurrent Resolution No. 480, Louisiana) (L)

Class Size:

	NUMBER OF PUPILS	
	Minimum	Maximum
SPEECH HANDICAPPED		
Speech Therapist (caseload)	–	100
AURALLY HANDICAPPED		
Special Class	8	10
DEAF		
Special Class	8	10
EDUCABLE MENTALLY HANDICAPPED		
Special Class - Slow Learners	12	18
Special Class	10	15
TRAINABLE MENTALLY HANDICAPPED	8	12
PHYSICALLY HANDICAPPED		
Special Class - Cerebral Palsied	8	10
EMOTIONALLY DISTURBED		
Special Class	8	10
VISUALLY HANDICAPPED		
Special Class	8	10
BLIND		
Special Class	8	10

Parish and city school boards may, with the consent and approval of the state department of education, contract with nearby public school districts, the state department of hospitals, or approved private schools, facilities, or contractors for the rendition of special educational and training services, on the job training, or distributive education to particular handicapped or exceptional children when for valid reasons it is not feasible or desirable for the parish or city school board to itself serve the particular child or children to the same extent. This shall not relieve the parish or city school board or state department of education of its obligation of supervision. (LRS Sec. 17:1947) (L)

Services:

The funds are probably available under R.S. 17:1941 et. seq. for an attendant to be hired by a school board to take care of mentally retarded children as they ride by bus to an educational center. (Op. Att'y. Gen., Dec. 16, 1966)

PRIVATE

If it is not feasible for parish or city school boards to establish public school classes for the handicapped, the state department of education may pay tuition charges in an approved private school or facility within the state. In order to be eligible for private services, a child must be eligible to enroll in an appropriate public special education class or facility if it were available in his city of residence. The state department of education assumes a tuition cost per pupil in private schools or facilities, not exceeding $60 per month for a nine month school year for residential pupils, and $40 per month for nine months for day pupils. (LRS Sec. 17:1945) (L)

Financial assistance may be provided to the parent or guardian of an exceptional child for the cost of room, board, training and/or therapy in a private residential facility for exceptional children if an appropriate state owned and operated facility is unavailable. (LRS Sec. 17:1945 and 40:2122) (L)

When the department of hospitals provides financial assistance for residential care of an exceptional child, the parent or guardian is required to contribute to the costs on a sliding scale basis established by the department, which uses as its primary base the total taxable income reported for federal tax purposes from the preceeding year. Assistance in defraying the cost of residential care is made only to supplement the basic parent or guardian support plus amounts and benefits available to the exceptional child or his parents or guardians from other sources. Other such sources include social security, veterans administration, private insurance, state board of health, state department of education (including special education and/or vocational rehabilitation), and department of public welfare funds.

Financial assistance may also be provided to the parent or guardian of an exceptional child who is emotionally disturbed, learning disabled, mentally handicapped, or physically handicapped for the cost of day care, outpatient treatment, and/or therapy and other non-residential services in a private facility when an appropriate state facility is unavailable. (LRS Sec. 40:2126) (L)

Physically handicapped, mentally handicapped, slow learners, educable and trainable mentally retarded, deaf, hard of hearing, speech impaired, blind, partially sighted, emotionally disturbed, cerebral palsied, learning disabled, crippled, and other health impaired children are eligible for private placement. (R) Placements must be made in schools in Louisiana only. (R)

It is not legal for a local school system to pay for the operation of special classes at a private school owned by the Catholic Church. (Op. Att'y. Gen., Oct. 20, 1969)

See Administrative Structure and Organization.

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Secondary Certification (Certificate No. 8)

bachelor's degree. general education (48), professional education (18), specialization--blind (21), partially seeing (16), crippled (18), mentally retarded (18), emotionally disturbed (18), deaf (26), hard of hearing (26), speech defective and hard of hearing (39)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

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*Required courses

STATE PROFILE

MAINE

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

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*The work presented herein was performed pursuant to Grant No. OEC 0-18 013-3541 (03-) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The Legislature are authorized, and it shall be their duty to require the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools. . . ." (Art. VIII, Me. Const.) (L)

Compulsory Attendance Law: Children between the ages of five and 17 are subject to the compulsory attendance requirements. [illegible] school attendance, the [illegible] exceptionality [illegible] excluded by the governing body of the administrative unit.

If a child between the ages of [illegible] and is unable to pass the tests for a work permit because of educational incapacity, he may be given [illegible] employment in nonhazardous occupation [illegible] (RSM Sec. 911) (L)

Policy: "It is the declared policy of this State to provide equal educational opportunities for all children. It is the purpose of this chapter to insure that all school administrative units provide equal educational opportunities for all exceptional children." (RSM Sec. 3121) (L)

Responsibilities: "Every administrative unit shall appropriate sufficient funds and shall provide adequate instructional facilities for the education of all exceptional children.

"The guidelines developed by the commissioner will establish procedures to assure the rights of due process for all children referred to in this Title." (RSM Sec. 3128) (L)

POPULATION

Definitions: "'Exceptional child' shall mean any person between the ages of five and 20 determined to be mentally handicapped, emotionally handicapped, hearing impaired, speech and language impaired, learning disabled, visually impaired, physically handicapped or multiply handicapped, as defined by the Maine Department of Educational and Cultural Services." (RSM Sec. 3123) (L)

"Children with special learning disabilities exhibit a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling or arithmetic. They include conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, developmental aphasia, etc. They do not include learning problems which are due primarily to visual, hearing, or motor handicaps, to mental retardation, emotional disturbance, or to environmental disadvantage." (R)

"A child having a hearing loss to a degree which prevents his satisfactory progress in a school for children with normal hearing, and whose hearing impairment interferes with his educational development, but with amplification, tutorial help, and speech therapy can benefit from the normal educational program, is a hearing impaired child. (R)

Speech and language disordered children are "children whose speech deviates from the norm to the extent that it is conspicuous, unintelligible, or unpleasant." (R)

Age of Eligibility: Children may receive services from age five to 20. Speech handicapped children may begin receiving services at birth. (RSM Sec. 3123) (L)

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

BEST COPY AVAILABLE

Screening. Every child in the public schools shall be tested and examined during every school year to see whether he is suffering from defective sight or hearing or any other disability or defect which prevents his receiving the full benefit of school work or requiring a modification of school work to prevent injury to the child and to secure the best educational results. Parents or guardians will be sent notice of any defects or disabilities. A record for each child will be kept in a form prescribed by the commissioner after consultation with the department of health and welfare. **(RSM Sec. 1135) (L)**

The administrative unit shall establish procedures to identify all children who require special education. **(RSM Sec. 3131) (L)**

Assessment and Placement. Information generally requested is as follows: intelligence tests, psychological examinations, medical examinations, achievement tests, and academic history. **(R)**

Evaluations are performed by a diagnostic clinician or child study team. The child should generally demonstrate a significant discrepancy between potential abilities and actual achievement, as evidenced on a teacher rating, an individual intelligence test (Stanford-Binet or Wechsler), and an achievement test. The evaluation must also include a medical report by a physician based on an examination or current knowledge (within six months) of the child's physical condition. **(R)**

Any educable mentally handicapped child shall be eligible for placement in an EMR class if he scores between 55 and 75 on the individual intelligence test. A child scoring between 50-55 or 75-80 may be placed in an EMR class upon recommendation of the superintendent of schools after study of the child's previous school records, the correction as far as possible of all physical handicaps affecting educational instruction and the concurrence of the responsible educational personnel in evaluating the child as mentally retarded.

A trainable mentally retarded child shall be eligible for enrollment in a special education program for TMR children if he scores between 25 and 55 on the individual intelligence test (potential for social independence taken into consideration) and after all physical handicaps affecting educational instruction have been corrected as far as possible. He must be ambulatory and toilet-trained, and able to communicate to make his wants known and to understand simple directions. He must be developed socially to the extent that he is not a danger to himself or others, and emotionally stable to the extent that group stimulation will not intensify his problems unduly. He must be able to react to learning situations, and must have potential for self-care and social adjustment.

A child having a hearing loss of a degree which prevents his satisfactory progress in a school for children with normal hearing is an eligible applicant for admission to the Governor Baxter State School for the Deaf. Any mentally normal child between [illegible] years of age, who cannot be materially benefited by the instruction of the public schools is eligible.

A child who has a hearing loss of a degree that does not warrant admission to Governor Baxter State School but who can benefit from added amplification, special tutorial help, and speech and language therapy is eligible to have these services provided for him by the local school system. **(R)**

To be eligible for placement in a program for the learning disabled, the child should have a special learning disability which is not primarily due to sensory, motor, mental retardation, or emotional disturbance, or environmental disadvantage. The child must exhibit a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language. These may be manifested in disorders of listening, thinking, talking, writing, spelling, or arithmetic and the child should generally demonstrate a significant discrepancy between potential abilities and actual achievement and his general learning ability should be above the definition of mental retardation. If he is within the definition of mental retardation and has special learning disabilities he should be considered as multiply handicapped.

The school system requesting approval shall use as a model for assessment of a given situation the guidelines recommended by the State Department of Education. **(R)**

The program must be planned as an integral part of a comprehensive individual special education plan for the child, coordinating all available community and state resources. It must be based upon clearly stated objectives and desired outcomes appropriate to the overall developmental needs of the child and his learning disabilities and must provide for the continuing diagnosis and assessment of a pupil's special learning disability by a learning disability or child study team. **(R)**

The administrative unit of residence shall provide diagnosis and evaluation as necessary for the planning and implementation of a special education program for each exceptional child.

Physical examinations or medical treatment are not required or authorized for any child whose parent objects on religious grounds. **(RSM Sec. 3131) (L)**

The question was asked by the Commissioner of Mental Health and Corrections whether children could be placed in State Hospitals. The Attorney General's opinion was that all children under 16 years of age suffering from "psychoses, neuroses, psychoneuroses, behavior disorders or other mental disabilities" should be sent only to Pineland Hospital and Training Center and not to State Hospitals. **(Op. Att'y. Gen., October 26, 1960)**

A juvenile had been sent to the Pineland Hospital and Training School by a juvenile court after being examined by two qualified physicians rather than a qualified psychiatrist, as the Statutes require. The Attorney General decided that, in view of the fact that other sections of the Statutes gave discretionary powers to the courts, the juvenile should be accepted on the basis of the examination by the two physicians.
(Op. Att'y. Gen., Aug. 26, 1970)

The administrative unit (town or school district) has a voice in the placement of a child in a special school. "It appears that the unit must at least approve the placement of exceptional children in a special school, the commissioner must approve such a indicating why the regular program is insufficient ... placement ... before reimbursement may properly occur." (Op. Att'y. Gen., Oct. 26, 1973)

ADMINISTRATIVE RESPONSIBILITY

The commissioner of education must provide or cause to be provided by administrative units all regular and special education, corrective and supporting services required to provide exceptional children with a free public education appropriate to their needs.

The commissioner has jurisdiction over educational programs in all institutions wholly or partly supported by the state and not supervised by public school authorities, to insure that they conform to state regulations. (RSM Sec. 3122) (L)

The [illegible] oversees the Governor Baxter School for the Deaf [illegible] the [illegible] location and course of study. (RSM Sec. 2903) (L)

Responsibility for [illegible] speech and hearing handicapped children rests with the local [illegible]. Necessary forms for applying for approval of a [illegible] handicapped children [illegible] must be approved by the state [illegible]. Applications [illegible] for group therapy programs in the [illegible] must [illegible].

Applications for children being [illegible] clinics and hospitals must have prior approval of the [illegible] submitted to the state department of education. (R)

Responsibility for [illegible] learning disabilities rests with the local administrative unit [illegible] approval of a state subsidized group [illegible] education of physically handicapped children [illegible] prior to the initiation of services. (R)

[illegible] blind [illegible] subject for [illegible] it will be committed to the [illegible]. (RSM Sec. 2714) (L)

The administrative unit shall make and keep current records of all exceptional children under section 3131 and all other children who are residents of the administrative unit and are receiving home, hospital, institutional or other special education in other than regular programs. (RSM Sec. 3132) (L)

The commissioner, upon the request of any school administrative unit, shall provide technical assistance in the formulation of any plan or subsequent report required pursuant to section 3129. However, any such assistance shall not be designed to transfer either in whole or in part the responsibility for an actual development of the plan or report. The commissioner shall give final approval to all plans or reports.
(RSM Sec. 3133) (L)

Administrative units may raise and appropriate money for in-service education of teachers and other school personnel. (RSM Sec. 3134) (L)

It was the Attorney General's opinion, with regard to the education of blind children, that the Department of Health and Welfare had power, upon the request of parents or guardians, to send blind children to Perkins Institution or other institution qualified to educate blind children. The parents, however, could neither demand placement nor choose the institution to which the child would be sent. However, a child cannot be withdrawn from such a facility by the department unless consent is given by proper authorities of the governor. Because of a possible [illegible] of the institutions, it was the Attorney General's opinion that it was the Department's responsibility to report to proper law enforcement officials the charges of criminal abuses at the institution. (Op. Att'y. Gen. Jan. 30, 1965)

There is no "practical limits" in part of the statutes relating to educational programming of exceptional children in Maine. According to the Attorney General, the Commissioner of Education does not have the power to determine what are the "practical limits". This is the responsibility of the State Board of Education. The Commissioner of Education cannot direct or require special education programs for exceptional children without such prior [illegible] found within "practical limits" by the State Board of Education.
(Op. Att'y. Gen. June 1, 1973)

PLANNING

The commissioner shall make and keep current by annual review a state plan for the education of all exceptional children. This state plan shall be presented to the governor and be made available for public distribution. (RSM Sec. 3129) (L)

The administrative unit shall provide the commissioner with information needed to insure compliance with the state's policy of providing equal educational opportunities for all exceptional children. (RSM Sec. 3130)

FINANCE

If at any time after July 1, 1975, an administrative unit is found by the commissioner to have failed to provide the necessary education to all exceptional children who by law are entitled to receive the same from such administrative unit, the commissioner [illegible] such portion of the state aid for the administrative unit as in his judgment is warranted [illegible] until the failure to provide appropriate education for exceptional children is remedied.

No action shall be taken by the commissioner except after public hearing by the state board of education, after due notice and for good and sufficient cause [illegible] the failure of the administrative unit to provide an appropriate education for exceptional children.

If the commissioner is presented with substantial evidence by an administrative unit that significant hardship exists, he may waive the requirements of this section until July 1, 1977. (RSM Sec. 3135) (L)

The state shall provide financial aid to administrative units for educational and related services provided by them for exceptional children. Such aid shall include the following elements:

1. Instructional services. The education of exceptional children in school programs designed to meet their special needs and the provision of supportive or remedial services designed to assist exceptional children.
2. Evaluation. Screening, diagnosis and evaluation necessary for the planning and implementation of a special education program.
3. Transportation. The furnishing of [illegible] transportation to the facility where the public or private day program is provided.
4. Tuition. The furnishing of tuition to day or residential schools, in-state or out-of-state.
5. Room and board. The furnishing of room and board, not to exceed an amount determined by the commissioner, and [illegible] conveyance to a special education facility in-state or out-of-state.
6. Contracts. Contracts with appropriate agencies for the provision of educational services for exceptional children, providing the contract is approved by the commissioner. (RSM Sec. 3136) (L)

Any administrative unit operating a program under the authority granted in this chapter may compute an annual tuition rate in either of the following manners:

1. Actual costs. Itemization of the actual costs of the program which was offered;
2. Salary. The salary paid to special education teachers shall be increased by 35% to compensate for the operating costs not included in salaries, and the resulting amount shall be divided by the average daily membership of students in special education classes for the same fiscal year. The per pupil cost thus determined shall become the legal tuition charge for the following school year. (RSM Sec. 3137) (L)

A private school shall compute an annual tuition rate based on the actual per pupil cost incurred in the operation of the program during the preceding school year. The per pupil tuition charge shall be computed on the basis of financial reports filed by the private school. Such financial reports shall be filed July 1st of each year in such form as the commissioner may require, and the allowable tuition charge may not exceed the per pupil operating costs as determined from the financial reports of the preceding school year.

The commissioner shall approve all tuition charges. It is the legislative intent that any increase shall not be in excess of 15% of the preceding year's rate unless sufficient evidence is presented to the commissioner by the private facility that a hardship would exist if the proposed tuition rate is not granted.

Any administrative unit or private agency establishing a new special education program may charge a tuition rate which is based on the estimated cost of the new program as it is approved by the commissioner. (RSM Sec. 3137) (L)

Appropriations available under this chapter may be used to make expenditures to institutions and organizations for speech and language education of hearing and language impaired children who have not become of compulsory school age. (RSM Sec. 3138) (L)

No parents of children who are sent to the Perkins Institute and the Massachusetts School for the Blind at Watertown, Mass. will be discriminated against on account of the wealth or poverty of the family. All sums necessary for the support and instruction of the pupils in the institution, including all traveling expenses of the pupils, shall be paid by the state. (RSM Sec. 3502) (L)

For each child from the district attending the Governor Baxter State School for the Deaf, local administrative units must contribute an amount equal to the per capita cost of instruction and equipment in a public elementary school for a normal child. (RSM Sec. 7906) (L)

In order to equalize educational opportunity and to assist administrative units in providing adequate educational programs for all pupils, state aid is to be distributed through an equalization formula. It is the intent of the legislature that at least one third of the average per pupil operating cost for all public schools in the state be paid by the equalization formula. Operating cost includes all expenditures except transportation, community services, capital outlay items and debt service reduced by tuition receipts. In addition to money distributed under the equalization formula, units will be reimbursed on a percentage of their expenditures for transportation, boarding school bus purchases, and the education of handicapped pupils. (RSM Sec. 3731) (L)

Expenditures made for the handicapped in excess of expenses for regular school children will be reimbursed in accordance with Table I. The commissioner will establish the applicable percentage for each eligible unit for per pupil valuation on January 1 of the year the legislature convenes in regular session. The percentage determined will be applicable for the next two fiscal years. (Table I). The percentage of state and [illegible] shall be determined by dividing the [illegible] per pupil valuation by the state per pupil valuation of the [illegible] and multiplying the result by [illegible]. No administrative unit may qualify for more than [illegible] percent [illegible]

[illegible]

Finance

In regard to educational payments by school systems to institutions providing special educational services to children from the district, it was again re-established that the school system in the town in which the family was presently residing was responsible for per capita cost equal to that of a regular child. This situation resulted after a family moved from one town to another, and the family's new school system was unwilling to pay because the children had never been in the schools. In the same opinion the Attorney General also outlined the state's responsibility by law to pay any additional cost of special education in the institution which may be more than the school system was forced to pay. **(Op. Att'y. Gen., Dec. 15, 1954)**

The question before the Attorney General was whether the local school system had to pay per capita cost for the education of mentally retarded children in an institution. The school system argued that they did not, because the children were not educable nor under their supervision. The Attorney General said they must pay since the education program was approved by the Commissioner of Education. It also made no difference whether the local school system had control over the program since by statute, children could be educated outside of the district with the district still being financially responsible. **(Op. Att'y. Gen., Feb. 5, 1964)**

This decision again relates to the financial responsibility of a school system for the education of educable mentally retarded children. The problem centered on the policy of a school system not to admit educable retarded children until age 7 -- normal children admitted at age 5 -- because the school officials thought such children were too young mentally to profit from special class education. The parents of an educable retarded child found services in a private school and asked for tuition payments from the local school system. It was refused. It was the opinion of the Attorney General that the regulation of excluding retarded children until age 7 was not valid. Thus, the school system could not refuse to make the tuition payments. **(Op. Att'y. Gen., April 7, 1964)**

The question was asked whether tutorial services provided in the school for handicapped children were the responsibility of the state and/or the administrative unit. "22 M.R.S.A. 3502 (supp) does not require that the state or administrative unit pay for tutoring. The sections devoted to the general powers and duties of the administrative unit financially responsible for tutoring of handicapped children. The primary purpose of [illegible] for which the tutoring is offered determines whether or not the state or local government is financially responsible."

Various above mentioned sections "make the administrative unit responsible for appropriating and expending funds for the education of handicapped children who cannot be taught with safety and benefit in the regular public school classes of normal children or who can attend regular classes beneficially if tutoring and other special services are provided. These sections do not authorize the administrative unit to appropriate and expend funds for tutorial services in public schools or resource settings if the purpose of the tutoring is for the vocational rehabilitation of handicapped children." **(Op. Att'y. Gen., Sept. 15, 1972)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Each administrative unit must provide appropriate education and training for exceptional children by any one or a combination of the following methods.

1. Approval. An appropriate program for exceptional children may be established in any administrative unit provided it is approved by the commissioner as to requirements for admission, teacher preparation, plan of instruction, necessary facilities and supervision.
2. Contract. An administrative unit may contract with, or tuition to, another administrative unit or any approved public or private agency or institution to provide a program for the education of exceptional children. Such contract shall be subject to approval by the commissioner.
3. Cooperative agreement. An administrative unit may enter into a cooperative agreement with one or more administrative units under sections 309, 309-A and 309-B. Programs established under this section shall be subject to approval by the State Board of Education.

In addition to subsections 1, 2 and 3, an administrative unit shall make any other provisions, subject to approval by the commissioner, to insure the education of all exceptional children as may become necessary. **(RSM Sec. 3127) (L)**

It was the opinion of the Attorney General that the Commissioner of Education had the power to make rules and regulations regarding the education of speech-defective children below the minimum age required by Maine law. The programs, if approved, are also eligible for state subsidy. **(Op. Att'y. Gen., Oct. 31, 1968)**

SERVICES

Every parent, guardian or other person having control of any physically normal child between the ages of six and 15 (who is too deaf to be successfully instructed by the methods of instruction [illegible] receiving a comparable education shall be required to send the child to the [illegible] Baxter State School for the Deaf during the school year. The child must attend the school until he is discharged by the [illegible] (RSM Sec. 2905)(L) the approval of the department and in good health and conditions. Children may be admitted to Governor Baxter State School for the Deaf at [illegible] school for a period of [illegible] years. (RSM Sec. 2904)(L)

"It is deemed to be appropriate to provide educational services within regular programs with supportive assistance, within regulations promulgated by the State Department of Educational and Cultural Services. Exception to this policy shall be based on appropriate supporting evaluative data submitted by a school administrative unit to the commissioner explicitly indicating a child cannot be properly served in a regular program." (RSM Sec. 3121)(D)(L)

"'Special education' means classroom, home, hospital, institutional or other instruction to meet the needs of exceptional children, diagnosis and evaluation, transportation and corrective and supportive services as defined by the commissioner required to assist exceptional children." (RSM Sec. 3123)(L)

Class Size	NUMBER OF PUPILS Minimum	Maximum
SPEECH HANDICAPPED		
Speech Therapist (caseload)	35	100
LEARNING DISABLED		
Special Class	-	8¹
EDUCABLE MENTALLY HANDICAPPED		
Special Class	-	15²
Integrated Program	-	20³
TRAINABLE MENTALLY HANDICAPPED		
Special Class (Primary C.A. 5-9)	3	10⁴
Special Class (Intermediate C.A. 10-14)	3	8¹

1. 12 with teacher aide
2. 20 with teacher aide
3. No more than 15 in a single class at any one time
4. 15 with teacher aide

Specialized [illegible] child in the regular classroom is designed to assist him in becoming more capable [illegible] instruction. [illegible] are [illegible] for the [illegible] necessary for him to keep up with his classmates [illegible] (R)

Programs for the hearing impaired [illegible] the child's degree of hearing impairment. A child [illegible] in a school for children with normal hearing [illegible] Baxter State School for the Deaf. [illegible] educational development, but with amplification, tutorial help, and speech [illegible] program. The [illegible] program for each individual child should be determined by [illegible] evaluation. (R)

The [illegible] for the program of speech and hearing lies with the clinician.

Preschool deaf and speech [illegible] eligible to enroll in a class for therapy. The state department [illegible] within the limits of available funds [illegible] with preschool children, not to exceed $5,000. (R)

[illegible] (R)

[illegible] (R)

[illegible] transportation for special education students to and from classes [illegible] by a public or private school [illegible] necessary services. (RSM Sec. 3561)(L)

Relative to hospital instruction costs, it was the opinion of the Attorney General that there was nothing in the law which prohibited special education in Maine from including hospital instruction. The cost of such instruction within the hospital, if it was approved by the Division of Special Education, must be borne by the child's local school system. [illegible] school system must pay the equivalent to the cost of educating a normal child in the district. (Op. Att'y Gen., March 3, 1952)

The Attorney General decided that a school system could be subsidized for transportation expenses incurred from transporting exceptional children to other municipalities for services. (Op. Att'y Gen., Oct. 7, 1968)

PRIVATE

If special services for handicapped or exceptional children are not provided within the district of residence, [illegible] may be [illegible] to private schools both in and out of the state. [illegible] Sec. 3114(1).)

[illegible] approved by the state department before a program is provided. [illegible] at the preceding school year [illegible] pupils who are sent to the Perkins Institution [illegible] expenses. (R)

[illegible] public school classes including personnel certification. (R)

The program must be under the general supervision of the state department of education and the immediate supervision of the [illegible]. (R)

See Finances.

The State of Maine and/or the local government are not required to pay for the maintenance of blind students at private schools since in no section of the law is it required. "Because the obligation to pay board has been imposed in specific instances, the absence of a provision specifically requiring the unit to pay board for handicapped children implies that the legislature did not intend that the unit be required to pay." (Op. Att'y. Gen., Sept. 15, 1973)

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary Provisional (Certificate No. 9)

bachelor's degree including general education (50% of curriculum), professional education (30), student teaching (6)

Eligibility for Secondary Provisional (Certificate No. 13)

bachelor's degree (same as elementary) plus specialization (30)

Eligibility for Special Education Teacher, Provisional (Certificate No. 18)

graduate from approved 4-year program and recommendation or eligibility for Certificate No. 9 or No. 13 general special education (12), identification and evaluation (6)

Eligibility for Special Education Teacher, Professional (Certificate No. 19)

graduate study (30), 4 years experience under Certificate No. 18

Because of a shortage of teachers of the physically handicapped, the question was asked whether funds could be used as scholarships in the summer to encourage teachers to take summer courses in the area of the handicapped. The Attorney General decided that the funds could be used for this purpose. (Op. Att'y. Gen., May 14, 1946)

After taking courses preparatory to working with mentally retarded children, teachers at Pineland Hospital and Training School asked if they were eligible for reimbursement of their expenses in taking those courses. It was the Attorney General's opinion that the State of Maine could not give monies under those circumstances. (Op. Att'y. Gen., January 17, 1964)

FACILITIES

Physical aspects and specifications of schools, classrooms, and other facilities for use by exceptional children shall be designed to reflect their educational, physical, psychological and social needs. To this end, administrative units, agencies of the State, and [illegible] and any private persons or entities constructing, renovating or expanding facilities with or aided by public funds, which facilities are intended to be used for the education of exceptional children, shall plan, locate, design, construct, equip and maintain them with due regard for the special capabilities, handicaps and requirements of the exceptional children to be accommodated therein.

No school or school-related construction, renovation, remodeling, expansion or modification shall be eligible for state aid pursuant to Chapter [illegible] unless the state board of education finds that it is in conformity with Title 2[illegible] Section [illegible] to [illegible] prohibiting architectural barriers for the handicapped. **(RSM Sec. 3124) (L)**

"Special education facility" means a school or any portion thereof, intended for use in meeting the educational, corrective and related needs of exceptional children." **(RSM Sec. 3124) (L)**

Plans and specifications for every special education facility must include a statement of the educational and related objectives and functions to be served and the uses to be made of the facility, as well as architectural plans and specifications. If an administrative unit submits plans and specifications for a building or other structure which does not include appropriate accommodations for its exceptional children, the state board of education shall require assurance that the unit has adequate special education facilities elsewhere. **(RSM Sec. 3125) (L)**

STATE PROFILE

MARYLAND

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The General Assembly, at its first session after the adoption of this constitution, shall, by law establish throughout the state a thorough and efficient system of free public schools, and shall provide by taxation, or otherwise for their maintenance." **(Art. VIII, Sec. 1, Md. Const.) (L)**

All deaf or blind children, who are between the ages of six and 18 and who because of partial or total blindness are unable to receive an education in the ordinary public schools, must attend school or classes for the deaf or blind for eight months during the scholastic year, unless it can be shown that the child is receiving regular formal instruction during the same period in studies usually taught in the public schools to children of the same age. The superintendent or the principal of any school for the deaf or school for the blind or any persons they authorize may excuse cases of necessary absence of enrolled pupils. This section does not apply if the child's physical condition renders his instruction inexpedient or impracticable. **(Sec. 108 Md. Stats.) (L)**

Every child between six and 16 years of age residing in the state shall attend some public school regularly during the entire period of each school year, unless it can be shown that the child is elsewhere receiving regular, thorough instruction during the period in the studies usually taught in the public schools to children of the same age. The superintendent or principal of any school, or persons authorized by the superintendent or principal may excuse cases of necessary absence among its enrolled pupils. The provisions of this section shall apply to any child who has a mental, emotional or physical handicap. However, the provisions do not apply to a child whose mental, emotional, or physical condition is such as to render his instruction as above described detrimental to his progress nor shall it apply to a child whose presence in school constitutes a danger of serious physical harm to others. In any such instance it shall be within the discretion of the superintendent of schools of the particular county or of Baltimore City, acting with the advice of the school principal, supervisor, pupil personnel supervisor, or visiting teacher, and with the written recommendation of a licensed physician or certified psychologist, to make other appropriate provisions for the free education of any pupil to whom the above provisions apply, or to permit the parents or guardians of that pupil to withdraw him from public school, for as long as the child's attendance in a public school continues to be detrimental to his progress or his presence in school continues to constitute a danger of serious physical harm to others. When a child is withdrawn from the public school as provided in this section the board of education of the particular county or of Baltimore City shall make some other appropriate provision for the child's education. If no appropriate educational placement is immediately available the board of education of the particular county or Baltimore City shall make some interim provisions for the child's education until such time as appropriate placement becomes available. Every person having under his control a child between six and 16 years of age shall cause the child to attend school or receive instruction as required by this section. Nothing in the provision of this section shall be construed to require the school attendance of any child who shall have been legally withdrawn from school before July 1, 1969.

Any person violating any provisions of this section is guilty of a misdemeanor and liable to a fine not exceeding $50.00 for each offense. **(Sec. 92 Md. Stats.) (L)**

Responsibilities: The state and its several counties shall make available free educational programs for all handicapped children, including those children who are severely handicapped, in accordance with this section. **(L)**

The state board of education shall, in the form of by-laws, promulgated on or before July 1, 1974, adopt standards for the identification, diagnosis, examination, and education of all children in this state through age 20 who are found to be in need of special educational services, whether or not such children are receiving non-duplicative services from other governmental agencies. The standards for the education of handicapped children enrolled in programs operated by agencies other than the boards of education of the several counties or the board of school commissioners of Baltimore City shall not be lower than the standards for the education of children enrolled in programs operated by the boards of education of the several counties or the board of school commissioners of Baltimore City. **(L)**

The local boards shall provide or arrange for appropriate facilities and services for all identified handicapped children. **(Sec. 103 Md. Stats.) (L)**

It shall be the responsibility of the board of education to plan an adequate educational program for each school-age handicapped child residing within its boundaries. This plan may involve public school attendance, home or hospital teaching, special financial aid, transportation, and/or institutionalization. **(R)**

Under the General Assembly Acts of 1957, Chapter 38, at least $250,000.00 must be budgeted by the governor each year for the education and training of handicapped children under six years of age. **(Op. Att'y. Gen. November 25, 1957)**

In *Maryland Association for Retarded Children v. State of Maryland* class action suit, the Maryland Association for Retarded children and 14 mentally retarded children are plaintiffs. The state of Maryland and board of education, the state superintendent, secretary of health and mental hygiene, director of mental retardation administration, and local boards of education are the defendants. Plaintiff children, classified as severely retarded to educable, are allegedly denied appropriate educational placement. Denial is arbitrary, capricious and discriminatory. No hearing procedure exists, and state tuition assistance program is insufficient. Plaintiffs seek declaratory and injunctive relief to require state to make free education available for all handicapped children regardless of severity of handicap. The suit was filed July 19, and pretrial conference was held on August 10, 1972. The conference required programming for some named plaintiffs for September. On September 7, the court "abstained" with respect to right to education issues and required plaintiffs to obtain determination under state law. Plaintiffs filed for determination on September 27, 1973.

POPULATION

Definitions: Handicapped children are defined as "those children with mental, physical or emotional handicaps." **(L)**

Auditory disabilities are defined as varying degrees of hearing loss. **(R)**

Special language disabilities are defined as varying degrees of language disabilities. **(R)**

Specific learning disorders are those "which result in such impairment or dysfunction of the child's intellectual processes that he cannot benefit from the instructional program usually found appropriate for most children. Specific learning disorders include, for example, problems in reception, cognition, symbolization, and expression of language; problems in visual perception and integration, and a specific reading disability." **(R)**

Any child who has more than one of the handicapping conditions, a combination of which constitutes a severely handicapped child, is said to be multihandicapped. **(R)**

Age of Eligibility: Handicapped children are eligible for services from birth to 18. **(R)**

Section 241 of Article 77 of the Annotated Code of Maryland does not allow State aid to be given to handicapped persons over the age of 21 to further their education. **(Op. Att'y. Gen., July 26, 1966)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: County boards of education, and the board of school commissioners of Baltimore City may conduct, under the direction of the county superintendent or the superintendent of public instruction of Baltimore City, a school census of handicapped children under 18 years of age including preschool handicapped children. All information collected under this section will be reported to the state board of health. **(Sec. 57 Md. Stats.) (L)**

All boards of education in the county schools and Baltimore City are to furnish to the respective health departments, any information relative to children with physical, mental and/or emotional handicaps living within their school system. The health department will record such children needing additional diagnostic or treatment services and will refer the children to the boards of education for evaluation. **(Sec. 99 Md. Stats.) (L)**

Secreening

The state board of education shall cause to be developed and implemented a program to be administered by county and Baltimore city school boards to evaluate each student entering his first year in any primary grade in any public school for the purpose of identifying learning disabilities, regardless of how such learning disabilities were caused. **(Sec. 98C Md. Stats.) (L)**

The boards of county school commissioners who have appointed a school physician will have the vision and hearing of every child attending the public schools tested at least once every two years. To secure the best educational results, the board will also check for any other physical disability which would require a modification of school work in order to prevent injury to the child. **(Sec. 77-138 Md. Stats.) (L)**

Notice of any disease or defects will be given to the parent or guardian of the child along with advice relating to treatment. **(Sec. 77-139 Md. Stats.) (L)**

Assessment and Placement: A handicapped child shall be assessed and evaluated by qualified specialists to determine his primary educational needs. When such determination has been made, an educational plan which appears most appropriate to meet these needs shall be formulated. **(R)**

School placement must be determined cooperatively by the parents and the local school system and approved by the state department of education. **(R)**

The speech therapy program shall be considered a part of the regular instructional program. **(R)**

Adequate appraisal by a qualified specialist shall be made for each child who is to receive therapy. **(R)**

Flexibility in scheduling therapy is dependent upon several factors. The kind and severity of the disability shall determine the size of the caseload of a speech and hearing clinician. Eighty cases per week shall be considered a maximum caseload. For the clinician who provides special educational and remedial services to children with organic problems, (cleft palate, language-impaired, cerebral palsy, hard-of-hearing, etc.) the caseload will be less than 80 children per week. The kind and severity of the disability shall determine the number of therapy sessions per week a child will have. Generally, two sessions are considered minimum. **(R)**

After exhaustion of all locally available administrative remedies and procedures, a parent or guardian of a mentally, physically or emotionally handicapped child or the board of education responsible for providing special education for such a child, with good cause, may request in writing to the state board of education, a review of: (1) diagnosis, (2) evaluation of educational programs provided for the child by the local or regional board of education, or (3) the exclusion or exemption from school privileges of the child by the local or regional board of education.

The state board of education shall, on receipt of request for a review within 60 days, establish a hearing board of not less than three persons knowledgeable in the fields and areas significant to the educational review of the child. Members of the hearing board may be employees of the state department of education or may be qualified persons from outside the department. No person shall serve as a member of the hearing board who participated in the previous diagnosis, evaluation, prescription of special educational services, and other educational records of the child, which records shall be furnished by the local or regional board of education.

The hearing board may dismiss any request for review, which after a review of the educational records of the child, it deems to have been made without good cause. The hearing board may hear any additional testimony as it shall deem relevant. The board may require a complete and independent diagnosis, evaluation and prescription of educational programs by qualified persons, the cost of which shall be paid by the state board of education.

It shall be the mandatory duty of each local board of education to implement the plan for its subdivision as approved or developed by the state board or state superintendent, as provided herein, in accordance with the provisions thereof. **(L)**

The state board of education shall, at least annually, review the approved plans. Amendments to an approval local plan may be made by a local board of education upon recommendation of the state superintendent and upon the approval of the state board of education. **(L)**

Each plan submitted by a local board of education, and each plan developed and promulgated by the state superintendent, shall include a detailed estimate of the number of children who will receive special educational services under the plan and the annual cost of implementing the plan. The programs and services provided to any child authorized and funded under present laws shall remain in effect and not be diminished prior to or during the phase-in of the plans provided for in Section 1 of this Act. **(L)**

Education personnel must consult with public and private agencies and persons concerned with and knowledgeable about the problems of children in need of special educational services.

Upon the adoption of standards by the state board of education, each local board of education must promptly and diligently develop a plan for the provision of special educational services in accordance with such standards. Such plan must provide for the education of all handicapped children, including those who are severely handicapped, whose parents or guardians are domiciled within the county. Prior to the adoption of a local plan, the local board of education must consult with public and private agencies and persons concerned with and knowledgeable about the problems of children in need of special educational services. Nothing herein shall preclude a local board of education from developing a plan which exceeds the state standards. The state department of education must provide reasonable assistance to the local boards of education in the development of the plan. The local plan must provide for full implementation of programs within five years on an annual phase-in basis. Each local board of education must submit its plan to the state superintendent of schools within nine months after adoption of the standards by the state board of education, with implementation to commence with the school year next following submission of the plan. "Local board of education," as used in this subtitle, includes the board of school commissioners of Baltimore City, and "county," as used in this subtitle, includes Baltimore City.

The state superintendent of schools must review each local plan, and, if he finds it to be in accord with the standards adopted by the state board of education and the requirements of this section, he shall recommend the plan's approval by the state board of education.

If he finds it not to be in accord with such standards or the requirements of this section, he shall return it to the local board of education with his written statement of the areas or manner in which the plan does not comply with those standards and requirements. In either case, he must take such action within sixty days after receipt of the local plan. If, within sixty days after return of the plan by the state superintendent, the local board does not submit a plan which, in the judgment of the state superintendent, conforms to the state standards and the requirements of this section, the state superintendent must thereupon develop a plan for the subdivision. Prior to the approval of such plan by the state board of education the subdivision shall be afforded an opportunity to review the plan with the state board.

FINANCE

The expenses incurred in supporting and establishing classes for the mentally, physically, and emotionally handicapped are reimbursed by the state in the same manner as other school programs in the state, but in calculating the cost of the minimum program as a basis for determining the amount of the state's share of current expenses. Each professional staff member employed in the teaching of the handicapped is included as a professional staff member in making the calculation. Districts will also receive $1,000 toward the cost of teachers, special equipment, nursing, therapeutic treatment, transportation, and any other necessary operating costs per child or the actual cost of such services, whichever is less, and any additional amount per child included in the annual sub-budget by the general assembly. **(Sec. 101 Md. Stats.) (L)**

Applications for state aid are to be submitted to the state department of education by the local superintendent of schools. **(R)**

Reimbursement will be contingent upon meeting program standards prescribed herein and shall be made in accordance with regulations prescribed by the Division of Administration and Finance. **(R)**

Notwithstanding any other provision hereof to the contrary, the county board of education shall be under no obligation to carry out the program set forth herein unless the state's share of the funds necessary thereof are available. **(R)**

When handicapped children require special transportation to a public school, the cost of such transportation may be charged to the general transportation fund. **(R)**

Under Article 30, Sections 1 and 2 of the Annotated Code of Maryland (1957 Edition), financial assistance to handicapped children can only be given if the parents "are bona fide citizens of Maryland" or the child has a legal guardian or next fried who is a resident of Maryland. Citizenship must be in Maryland for at least two years. **(Op. Att'y. Gen., July 17, 1958)**

Under Senate Bill 155, which was passed in 1968, Article 77, Section 241 (b) and (c) of the Annotated Code of Maryland, it allows for State reimbursement of not more than $600 for the education of mentally or physically handicapped children. This $600 could also be used as tuition in the event the school system did not provide the special services. Subsection (c) allows for more than $600 reimbursement only if extensive therapy or services are required in addition to the regular special education services. **(Op. Att'y. Gen. May 24, 1968 and November 14, 1968)**

The hearing board shall have the authority to confirm, modify, or reject any diagnosis, evaluation, educational program prescribed or exclusion or exemption from school privileges and prescribe alternate special educational programs for the child. Appeal from the decision of the hearing board shall be to the circuit court for the county in which the child resides, and, if the child resides in Baltimore City, to any one of the three common law courts of the supreme bench.

Members of the hearing board, other than those employed by the state department of education, shall be paid reasonable fees and expenses as established by the state board of education. **(Art. 77, Sec. 100A Md. Stats.) (L)**

Plans for parent and teacher counseling shall be included by the local department of education as part of the program developed for handicapped children. **(R)**

Exceptions to any regulations shall be approved by the state superintendent of schools. **(R)**

In studying handicapped children and in planning programs, the local department of education shall have available the services of a person qualified to administer and to interpret individual psychological tests. **(R)**

Both individual and group therapy are necessary in meeting the special needs of children having speech and hearing handicaps. **(R)**

Diagnosis of auditory disabilities is made by an audiologist and a medical specialist. A learning program should be provided for children evidencing varying degrees of hearing loss. **(R)**

When a group of children with little or no residual hearing are brought together in a special class, a qualified teacher to work with such children shall be provided. **(R)**

When a group of children with moderate to severe hearing disability can be brought together in a special class, a qualified teacher to work with such children shall be provided. **(R)**

An aide may be employed for every two special classes.

Children with mild to moderate hearing losses generally should be placed in the regular classroom. **(R)**

The special services of an itinerant speech and/or hearing clinician shall be provided for children with auditory impairments.

Diagnosis of special language disabilities is made by a hospital or university speech and hearing center at local evaluation centers, or by speech supervisors.

A language program should be provided for children evidencing varying degrees of language disabilities.

When a group of children with moderate to severe language disabilities can be brought together in a special class, a teacher who is qualified to work with such children shall be provided.

An aide may be employed for every two special classes.

Children with mild language disabilities generally should be placed in the regular classroom. **(R)**

The special services of an itinerant speech and/or hearing clinician should be provided for children with special language disabilities. **(R)**

The local department of education must provide a special program within the public school system for any child whose specific learning disorders result in such impairment or dysfunction that he cannot benefit from the instructional program usually found appropriate for most children. **(R)**

Those responsible for educating handicapped children (who give promise of being employable) shall plan with rehabilitation counselors at the appropriate time in order to develop a total program for each child.

ADMINISTRATIVE RESPONSIBILITY

The Maryland school for the deaf and the school for the blind are responsible for keeping the state board of education completely informed regarding the educational program and administrative policies of the schools. In the state department of education, the school for the deaf, the school for the blind and local public school systems are required to work cooperatively to meet the educational needs of deaf, hard of hearing, blind, and partially sighted children. **(Sec. 107 Md. Stats.) (L)**

The state superintendent is responsible for approving any program offered by any state institution under the supervision of the department of juvenile services, the department of correction and the department of mental hygiene, if such program complies with the standards of the state board of education. **(Sec. 28, Ch. 2, 1969) (L)**

The state board of education is responsible for setting up the standards, rules, and regulations to examine, classify and educate children with mental, physical, or emotional handicaps who can be benefited under the provisions of special education. The standards, rules, and regulations, including the prescribing of qualifications of teachers, curriculum and equipment and supervision of the program, are initiated by the state board of education. When setting up standards for emotionally disturbed children, the state board shall seek the advice and guidance of the state department of health and hygiene, and these two agencies shall cooperate in developing the standards, rules, and regulations. **(Sec. 101 Md. Stats.) (L)**

PLANNING

Each county board of education must plan an adequate educational program for each school age handicapped child residing within its boundaries.

By joint resolutions, the legislature of the state of Maryland requested the governor to abolish the governor's interdepartment council and advisory committee on the handicapped and appoint a commission to study the needs of the handicapped, with the commission not composed of more than 15 members including representatives of the medical and teaching professions, state and local administrative agencies, interested volunteer organizations, and the General Assembly. The legislature has expressed the feeling that for the purposes of coordinating all necessary programs and services for handicapped citizens a group of individuals free from bureaucratic entanglement can better carry out the function. **(L)**

Upon adopting the standards, the state superintendent of schools shall develop a plan for the provision of special education services for children through age 20 who are in state institutions. The plan shall be in accordance with the standards. The state board of education shall review and approve the plan. **(L)**

If any subdivision of the state is not providing special programs and services for handicapped children who attend an in or out-of-state school providing appropriate instruction and which is approved by the state board of education, the parents of such children will receive state reimbursement by $1,000 or the actual cost, whichever is less, as well as any additional amount included per child in the annual budget to assist in paying tuition and/or fees for the instruction of the child. **(Sec. 101 Md. Stats.) (L)**

SERVICES

"The term 'special educational services' means those educational services necessary to assure that all children with handicaps which impede their ability to learn are afforded the opportunity to attain appropriate levels of knowledge and learning skills consistent with their potential, and shall include the full range of such services, including but not limited to special equipment, therapeutic treatments ancillary to education, and transportation, whether provided as part of or additional to regular classroom placement or in separate public or private classes or facilities such appropriate educational services to begin as soon as the child can benefit from them, whether or not he is of regular school age." The standards shall include qualifications for teachers, administrators, and other professional, paraprofessional, and non-professional persons, procedures for identifying, testing, and diagnosing children in need of special educational services, guidelines for curricula, instructional materials, equipment, and the organization, administration, and supervision of the program, including accounting, auditing, and reporting procedures. **(Art. 77 Sec. 106A Md. Stats.) (L)**

Provision must be made for local, regional and/or state day and residential centers for children who cannot reasonably be served in the regular public schools, and coordination of such special educational services with services rendered by other governmental agencies. Prior to adopting these standards, the state board of education must consult with public and private agencies and persons who are concerned with and knowledgeable about the problems of children needing special education services. **(L)**

In providing special education services to handicapped children, transportation will be provided for all enrolled students in public schools and in schools maintained by any state agency, as well as in any non-public educational facility approved by the state department of education, if enrollment and transportation have been approved outside the state. **(Sec. 99 Md. Stats.) (L)**

The governor shall place in the budget each year, a sum for training handicapped children who are under age six. Any money appropriated for this act will be spent for children who are defined as children "with a physical, mental and/or emotional impairment, which in the judgment of the department, makes a special educational and training program necessary or desirable to help the child attain a scholastic achievement as near normal as feasible." Children suffering from mild, moderate, severe or profound hearing losses are included in this definition. **(Sec. 102 Md. Stats.) (L)**

Class Size:	**NUMBER OF PUPILS**	
	Minimum	**Maximum**
SPEECH HANDICAPPED		
Speech and Hearing Clinician (weekly caseload)	--	80 (less if some children have organic problems)
LEARNING DISABLED		
Special Class (Specific Learning Disabilities) Primary Age	--	10
Special Class (Specific Learning Disabilities) Intermediate Age	--	10
Special Class (Specific Learning Disabilities) Jr. & Sr. High School	--	10
Special Class (Special Language Disability)	--	15
Itinerant Programs (Special Language Disability) (weekly caseload)	--	less than 80
AURALLY HANDICAPPED AND DEAF		
Special Class (Little or no residual hearing)	--	7
Special Class (Moderate to severe hearing disability)	--	10 (aide may be employed for every two special classes)
ITINERANT SPEECH AND/OR HEARING Clinician (caseload)	--	80
EDUCABLE MENTALLY HANDICAPPED		
Special Class - Primary Age	--	10
Special Class - Intermediate Age	--	15
Special Class - Jr. & Sr. High Age	--	20
Special Class Resource Teacher (Caseload)	--	30

BEST COPY AVAILABLE

TRAINABLE MENTALLY HANDICAPPED	
Special Class - Primary Age	7
Special Class - Intermediate Age	10
Special Class - Jr. & Sr. High Age	12
PHYSICALLY HANDICAPPED	
Special Class - Primary Age	7
Special Class - Intermediate Age	10
Special Class - Jr. & Sr. High Age	15
EMOTIONALLY DISTURBED	
Special Class - Primary Age	10
Special Class - Intermediate Age	12
VISUALLY HANDICAPPED	
Special Class (Partially Seeing) - Primary Age	7
Special Class (Partially Seeing) - Intermediate Age	12
Special Class (Partially Seeing) - Jr. & Sr. High Age	15
Itinerant Program (Partially Seeing) - Caseload	20
BLIND	
Special Class - Primary Age	7
Special Class - Intermediate Age	10
Special Class - Jr. & Sr. High Age	12
Itinerant Program (Caseload)	7
Regular Class Placement	1*
MULTIPLY HANDICAPPED	
Special Class - Primary Age	7
Special Class - Intermediate Age	10
Special Class - Jr. & Sr. High Age	10

*Itinerant Braille teacher must be available.

PRIVATE

If any subdivision of this state is not providing special programs and services for handicapped children who attend an in or out-of state school providing appropriate instruction and which is approved by the state board of education, the parents of such children will receive state reimbursement by $1,000 or the actual cost, whichever is less, as well as any additional amount included per child in the annual budget to assist in paying tuition and/or fees for the instruction of the child. **(Sec. 101 Md. Stats.) (L)**

The facilities of all Maryland Public institutions shall be utilized before placement in nonpublic schools is con-
sidered. These would include the Maryland School for the Deaf, Maryland School for the Blind, Rosewood, Crowns-
ville, etc.

Mentally retarded, physically disabled, communication disabled, visually handicapped, and specific learning dis-
abled children are eligible for services in private institutions. **(R)**

The facilities of all Maryland public institutions shall be utilized before placement in nonpublic schools is con-
sidered. These would include the Maryland School for the Deaf, Md. School for the Blind, Rosewood, etc. **(R)**

The local school system must cooperate with the parents in making the placement, which must have state ap-
proval. **(R)**

Before an application can be considered, there shall be evidence that the child has been enrolled or will be accepted in the school for which application is made.

Applications shall be filed in the state department of education within a reasonable time after the child enters the school for which application is made.

Applications shall be approved for educating children, either within the state or outside the state, only in schools
approved by either the state department of education concerned, another appropriate state agency, or, in lieu of
these, an evaluation by the Maryland state department of education. Nonpublic schools shall meet the same mini-
mum standards as those prescribed for public schools, i.e., class size, certification requirements for teachers, etc.

Statements of costs to be reimbursed must be supported by such financial data as shall be required by the division of administration and finance of the state department of education.

Application for state aid shall be approved for educating a child only in an institution providing a program to meet his specific needs.

Evidence shall be shown that an appropriate educational program is provided by the school.

Since approval is granted on a one-year basis, application shall be filed for each child every year.

Each initial application shall be supported by reports from physicians, psychologists, psychiatrists, and/or other
specialists qualified to examine the child. Such reports shall contain factual information concerning the child's
present condition and probable potential. Case histories, individual psychological evaluations, psychiatric studies,
and specific medical data are necessary in most cases. These reports shall be filed with the local school system.

Each application shall be submitted in duplicate with the signature of the local superintendent of schools. This
signature certifies that there is no appropriate educational program available to the child in the local public school
system.

State aid shall be granted only to those who are bona fide residents of Maryland.

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Elementary Certificate

bachelor's degree including academic content courses (80), professional education including foundation of education (6), curriculum and methods (12), student teaching (8)

Secondary Certificate

bachelor's degree including specialization (24-36), professional education including foundation of education (6), secondary education (6), student teaching (6)

Early Childhood Certificate

bachelor's degree including academic content courses (80), professional education including foundation of education (6), curriculum and methods for early childhood (12), student teaching (8)

Teacher of Handicapped Children Certificate

bachelor's degree with major in special education plus 30 hours in specialized subject or eligibility for secondary, elementary, or early childhood certificate plus 18 hours in special education. This applies to teachers of children with physical handicaps, mental retardation, visual impairment, emotional disturbances and learning disorders.

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

The Maryland School for the Deaf cannot make its facilities available for other handicapped children who are not deaf and mute without the permission of the General Assembly of Maryland. **(Op. Att'y. Gen., December 21, 1953)**

STATE PROFILE

MASSACHUSETTS

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "It shall be the duty of legislatures and magistrates, in all future periods of this Commonwealth, to cherish the interests of literatures and the sciences and all seminaries of them; especially the University of Cambridge, public schools, grammar schools in the towns . . ." **(Ch. 5, P. 2, Mass. Const.) (L.)**

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to the compulsory attendance requirements. **(L.)**

Children whose physical or mental condition renders attendance inexpedient or impracticable, subject to the provision of **Sec. 71B-3,** are excused from the compulsory attendance requirements. No physical or mental condition capable of correction or allowing the child to receive special instruction at state expense in an institution other than a public day school exempts a child from the compulsory attendance requirements. **(Sec. 76-1 and 76-2, Mass. Gen. Law)* (L.)**

All persons having control of a deaf child between the ages of seven and 18 must have the child attend some suitable school. If a physical or mental condition other than the child's deafness renders attendance inexpedient or impracticable or if he is receiving approved private instruction, the child is excused from the requirements. **(Sec. 76-2A Mass. Gen. Law) (L.)**

Policy: The legislature of the state of Massachusetts has found that past development of special education programs resulted in a great variation of services to children with special needs, some children having a greater educational opportunity than others in less favored categories or environments. The legislature further found past methods of labeling and defining needs of children had a stigmatizing effect and caused special programs to be overly narrow and rigid both in their content and in their exclusion and inclusion policies. Because it is state policy to provide an adequate publicly-supported education to all resident children, this act provides for a flexible and uniform system of special education program opportunities for all children requiring special education and provides for a flexible, nondiscriminatory system for identifying and evaluating individual needs of children requiring special education; further it requires evaluation of the needs of the child and the adequacy of the special education program prior to placement and periodic evaluation of the benefit of the program to the child and his needs thereafter; and finally, it prevents denials of equal educational opportunity on the basis of national origin, sex, economic status, race, religion, and physical or mental handicap in the provision of differentiated education services.*

This act is designed to remedy past inadequacies and inequities by:

1. defining needs of children requiring special education in a broad and flexible manner leaving state agencies with the ability to provide the more detailed definitions, recognizing that these children have varieties of characteristics and needs, all of which need consideration if a child's educational potential is to be realized;
2. providing the opportunity for a full range of special programs;
3. requiring that a program promised to be special actually benefits children assigned to it; and
4. replacing the present inadequate and antiequalizing formula for distribution of state aid for special education programs with an equalizing one which encourages cities, towns, and regional school districts to develop adequate special education programs over a reasonable period. **(Sec. 1, Ch. 76B,**

Responsibilities: All school committees must annually report, according to department regulations, the assignment by sex, national origin, economic status, race and religion of children by age level into special education classes. If in any district's special education program, there is a pattern of assignment throughout the district on the basis of sex, national origin, economic status, race and religion of students substantially disproportionate from the actual distribution, the department shall notify the district of its prima facie denial of equal educational opportunities. The department is then responsible for holding a public hearing to investigate such prima facie denial at which the local district must show that the disproportion is necessary to promote a compelling educational interest of the affected children and the state. If the district fails to do this, a denial of the equal educational opportunity is declared by the department and orders the district to submit a plan to eliminate the denial effective for the next school year. If the department views the plan as inadequate or if implementation of the plan proves inadequate, the department may then request the attorney general to proceed to the superior court for all necessary injunctive and other relief. If the prima facie denial is continued without elimination for a period of two consecutive years in any district, any person residing in the school district may bring suit in the superior court of his residence to determine whether there is adequate justification for the prima facie denial and if there is not to obtain the necessary and appropriate injunctive or other relief. **(Sec. 6, Ch. 71B, 1972)* (L.)**

[School committees of any town, regional, or city district may provide special instruction periods for speech handicapped children.

If there are any children whose hearing is impaired and who can benefit from language training, lip reading, or auditory training the school committee shall provide appropriate instruction. **(Sec. 69-29, Mass. Gen. Law)] (L.)**

[In any town where there is a school age physically handicapped child or a child who is both physically handicapped and mentally retarded and unable to attend school, the school committee shall employ a teacher or teachers to offer instruction to the child in his home or at any place under the conditions the committee may arrange.] **(Sec. 71-46A, Mass. Gen. Law) (L.)**

[In all towns where there are five or more physically handicapped children unable to attend regular classes but who may attend special classes, these children will be given special class training. In any town where there is a child of school age physically able to attend school but so physically handicapped that it prevents normal educational growth and development, the child may be given the type of training recommended by the state department of education. **(Sec. 71-46A, Mass. Gen. Law)] (L.)**

[In any town or regional district where there is a child with a learning disability the school committee may provide special instruction periods for such children. In towns or regional school districts where there are seven or more children with learning disabilities the school committee may establish a class to furnish remedial instruction. **(Sec. 71-46K, Mass. Gen. Law)] (L.)**

All sections followed by an asterisk (*) take effect September 1, 1974, all sections in brackets ([ ]) are

exclusion of "educable" and "trainable" retarded children whose presence may be "detrimental to the members of their class or school." The local school committee (board) makes this decision.

No mentally retarded child can be excluded merely because of age unless the age requirement is also placed on all students. A mentally retarded child of school age had the same right to enter school as normal children, "unless there are conditions relating to the child apart from age and mental condition which would prevent the entry and which exclusion would be applied equally to all children under the same condition." **(Op. Att'y. Gen., January 20, 1957)**

If a public school system decides to offer special services to handicapped children in the district under General Laws, Chapter 69, Section 29, this service must also be extended to handicapped children in private schools. No discrimination is allowed. No decision has been made as to whether G.L.C. 69, s. 29 is permissive or mandatory, but if instituted, the children in public schools cannot be served in lieu of private or vice versa.

Quinn v. School Committee of Plymouth, 332 Mass. 410, is used as precedent for the above opinion. **(Op. Att'y. Gen., May 10, 1963)**

Comp. Attnd. law.

Under General Laws, Chapter 71, Section 46, as amended by Chapter 231 of the Acts of 1922, mentally retarded children age three and over are compelled to attend school where special classes have been established just as normal children are compelled to go to school. However, the school committee has discretionary power in determining the best form of education for a child who is mentally retarded. **(Op. Att'y. Gen., May 27, 1927)**

In the *Association for Mentally Ill Children v. Greenblatt* lawsuit, the plaintiffs are the class of emotionally disturbed children in Massachusetts. Defendants are the Boston school system officials, education officers in school districts state-wide, and the Massachusetts departments of education and mental health. The suit charges that children classified as emotionally disturbed are denied an education. Denial is arbitrary and irrational, since state standards for placement do not exist and hearings are not provided. Due process and equal protection are violated. Declaratory judgement is sought to end unconstitutional practices. Order also requests to require defendants to prepare a plan to guarantee plaintiffs rights and to appoint a master to oversee development and implementation of it. The case, filed December 30, 1970, is still pending. (lawsuit)

POPULATION

Definitions: " 'School age child with special needs,' is a school age child who, because of temporary or more permanent adjustment difficulties or attributes arising from intellectual, sensory, emotional, or physical factors, cerebral dysfunctions, perceptual factors, or other specific learning disabilities or any combination thereof, is unable to progress effectively in a regular school program and requires special classes, instruction periods, or other special education services in order to successfully develop his individual education potential." **(Sec. 1, Ch. 71B, 1972)*(L)**

" 'School age child requiring special education,' is any child with special needs who requires special education as determined in accordance with the regulations set forth by the department." **(Sec. 1, Chapter 71B, 1972)* (L)**

Special education services may be provided to deaf, hearing impaired, visually handicapped, aphasic, deaf-bind, mentally retarded, emotionally disturbed, physically handicapped, speech impaired, learning disabled, and mentally retarded-blind children.

"The term 'deaf' shall mean those children whose hearing loss, or hearing loss and consequent language disability, as certified by a practicing otologist (or physician, if an otologist is not available), renders normal progress in a regular public school impossible at the time of otologist and educational evaluation." **(R)**

Deaf children are those "children having adequate intelligence and hearing to learn speech, no severe emotional disturbance and no paralysis involving the vocal structures, and yet unable to speak or understand speech." **(R)**

"Learning disabled children are those children who exhibit a disorder in one or more of the basic neuro-psychological processes involved in understanding or in using spoken or written language. These may be manifested in disabilities and/or disorders in listening, thinking, talking, reading, writing, spelling or arithmetic. They include, but are not limited to, conditions sometimes referred to as perceptual handicap, minimal brain dysfunctions, specific language disability, dyslexia, discalculia or dysgraphia." **(R)**

"These specific learning disabilities are of such severity that the pupil's level of functioning in basic academic skills is significant below the range of functioning expected from pupils of similar age and normative ability, and for whom a favorable prognosis for the reduction of the discrepancy between potential ability and achievement is evident." **(R)**

"These disabilities do not include learning problems which are primarily due to deficient visual and/or auditory acuity, mental deficiency, emotional disturbance or environmental disadvantage, but may be found occasionally as additional complications of the foregoing primary problems." **(R)**

Age of Eligibility: " 'School age child' is any person from ages 3 to 21 who has not obtained a high school diploma or its equivalent." **(Sec. 1, Chapter 71B)* (L)**

Children may receive services during the same period a town provides services for children in regular education programs. **(L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: All school committees under regulations of the department, after consultation with the departments of public welfare and public health, will annually ascertain the number of school age physically handicapped children. **(Sec. 71-46A, Mass. Gen. Law) (L)**

Under regulations of the departments of education, public health, and mental health, the school committees of all town and regional districts will yearly ascertain the number of school children with specific learning disabilities resulting from perceptual motor handicaps including problems in visual perception and integration and congenital dyslexia. **(Sec. 71-46K Mass. Gen. Law) (L)**

An annual town census of children served or eligible for education services and programs under these regulations shall be taken as part of the regular department of education census and shall be reported under categories as follows.

1. Fully Integrated Program: Children with SLD under educational management spending the normal school day in regular classes and activities with less than 25% time out for special services.
2. Predominantly Integrated Program: Children with SLD under the educational management spending more than half of the normal school day in regular classes and activities, requiring more than 25%, but less than 50% time out for special services.
3. Partially Integrated Program: Children with SLD under educational management spending some but less than half of the normal school day in regular classes and activities, or in a "substantially separate program."
4. Children of school age with SLD eligible for educational services but not yet in school.
5. Children with SLD eligible for educational services under these regulations but attending school at a department of mental health, department of youth service, department of public health, rehabilitation or other public or private specialized educational facility. **(R)**

The department of mental health and those agencies mentioned in 5 above shall report annually to the superintendent of schools of each town and to the department of education the age and identity of children of the town enrolled in their classes, programs, or institutional facilities. The department of mental health shall similarly report the age and identity of children of the town determined by multidisciplinary evaluation at one of its facilities to be specifically learning disabled as described in these regulations. **(R)**

If any educational program is to be provided for any child suspected of having SLD, it shall be initiated by a current and sufficient evaluation carried out in accordance with regulations, whereby through professionally competent individual assessments followed by a joint conference of the examiners a determination is made that specific learning disability materially and substantially prevents or limits the child from benefiting from regular class placement, and that an alternative, modified program is desirable. **(R)**

Screening: The school committee and the board of health (in those districts where school health service is the responsibility of the board of health) shall have every child in the public schools examined at stated intervals including his original entry into the schools, as determined by the department of public health, after consultation with the department of education and the medical profession. Children will be examined for defects in sight or hearing or any other physical defects which would prevent the child receiving the full benefit of school work or requiring a modification of the work in order to prevent injury to the child or to secure the best educational results. Parents or guardians of the children will be notified if the child is found to be suffering from any disease or defect or if any child is found to have any defect or disability requiring treatment. **(Sec. 71-56, Mass. Gen. Law) (L)**

Assessment and Placement: No child may be assigned to a special education program unless an evaluation of the child's needs and the particular program that the child is likely to benefit from has been determined. The child and his program must be re-evaluated at least annually to determine whether the child is benefiting from the program according to standards set forth below. If the program is not benefiting the child and another program may benefit him more or the program has benefited the child sufficiently to permit his assignment, the child will be reassigned. In the event of a consistent failure to benefit children, a program shall be abolished or altered. **(Sec. 2, Ch. 71B, 1972)* (L)**

In accordance with the regulations, guidelines, and directives jointly issued by the department with the departments of mental health and public health and with the assistance of the department of education the school committees of every city, town, or school district will identify all school age children with special needs. They will diagnose and evaluate the needs of these children and propose special education programs to meet their needs, provide or arrange for the provision of the program, maintain a record of the identification, diagnosis, proposal, and program actually provided, and make any required reports to the department. Until otherwise proven, every child is presumed to be appropriately assigned to a regular education program and not be a school age child with special needs or a school age child requiring special education. No school committee may refuse a school age child with special needs admission to school or continued attendance in a public school under department rules. No child refused attendance or continued attendance will be denied alternative forms of education approved by the department through a tutoring program at home, through enrollment in an institution operated by a state agency, or through any other program approved for the child. No child may be placed in a special education program without prior consultation, evaluation, reevaluation, and consent as specified and implemented by department regulations.

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Within five days after a child enrolled in a regular education program has been referred by a school official, parent or guardian, judicial officer, a social worker, a family physician or other person having custody of the child, to determine whether the child needs special education, the school committee must notify the parents or guardians of the child in writing in the primary language of the home of the referral, the evaluation procedures to be followed and the child's right to individual evaluation at facilities approved by the department under regulations adopted jointly with the mental health and public health departments and their right to appeal any evaluation, first to the department and then to the courts. Within 30 days after the notification, the school committee must provide an evaluation as described below.

The evaluation must include an assessment of the child's current educational status by a local school department representative, an assessment by a classroom teacher who has had the child as a pupil in the classroom, a complete medical assessment by a physician, an assessment by a psychologist, nurse, social worker, or guidance counselor of the general home situation and pertinent family history factors, and assessments by any other specialists required in accordance with the diagnosis, including when necessary but not limited to, an assessment by neurologists, audiologists, ophthalmologists, and specialists competent in speech. Requirements for persons assessing children requiring special education will be developed by joint regulations of the departments of education, mental health, and public health. These departments through their joint regulations will define the circumstances under which the requirements of any or all of these assessments may be weighed as long as an evaluation appropriate to the needs of the child is provided. These persons assessing the child will maintain a complete and separate record of all diagnostic procedures used and their results, conclusions reached, suggested courses of special education, and medical treatment best suited to the individual's needs, and the specific benefits expected from this action. A proposed special education program may include a course of study that is not a regular education program. The persons assessing the child will present a method of monitoring the benefits of the special education to the child and the conditions which would indicate that the child should return to regular classes, and expected results of regular class placements. **(Sec. 3, Ch. 71B, 1972)* (L)**

If a child with special needs requires a medical or psychological treatment as part of the special education program or his parent or guardian requires social services related to the child's special needs, this treatment and services or both will be made available in accordance with joint regulations of the departments of education, mental health, public health, and public welfare in connection with the child's special education program. Reimbursement for the cost of this treatment or services will be made according to the provisions of Section 1 (See Finance.).

Upon completing the evaluation, an independent evaluation may be obtained from child evaluation clinics or facilities approved by the department jointly with departments of health and public health or at private expense from any specialist. The original record and clinical history from both the evaluation provided by the school committee and the independent evaluation must be made available to parents, guardians, or person having custody of the child.

Separate instructions, limited to the information required for adequate care of the child, are distributed only to persons directly concerned with the child's care. Otherwise, these records will be confidential.

Hearings may be held by the department regarding the evaluation. These hearings must be held in accordance with the provision of Chapter 30A. The parents, guardian, or other person having custody have the right to refuse the education programs suggested by the initial evaluation and request a department hearing of the evaluation of the child and an appropriate educational program. At the conclusion of the hearing with the consultation and advice of the appropriate advisory council (See Planning.) the department may recommend alternative placements to parents, guardians, or other persons with custody and these persons may either consent to or reject these proposals. If rejected and the program desired by the parents, guardians, or persons with custody is a regular education program, the department and local school committee will provide the child with the educational program chosen by parents, guardians, or persons with custody except where the placement would seriously endanger the health or safety of the child or substantially disrupt the program of other students. In these circumstances the local school committee may proceed to the Superior Court with jurisdiction over the residence of the child to make this showing. If this is shown, the court is authorized to place the child in an appropriate educational program.

If the parents, guardians or persons with custody reject the educational placement recommended by the department and desire a program other than a regular education program, the matter is then referred to the state advisory commission on special education to be heard at its next meeting. The commission must make a determination within 30 days of the meeting regarding the placement. If this placement is rejected, they may proceed to the Superior Court with jurisdiction over the residence of the child, and the court is authorized to order the placement of the child in an appropriate program.

During the evaluations, assessments, and hearings, a child will be placed in a regular education program, unless the placement endangers the health or safety of the child and substantially disrupts the educational program for other children.

No parent or guardian of any child placed in a special program will be required to perform duties not required of a parent or guardian of a child in regular school program.

Within 10 months of placement in a special program and at least annually thereafter the child's educational progress will be evaluated in the same manner described above. If the evaluation suggests the initial evaluation was in error or a different program or medical treatment would now benefit the child more, an appropriate reassignment or alteration in treatment is then recommended to the parents, guardian, or person with custody of the child. If the evaluation shows that the program does not benefit the child to the maximum extent feasible, then the child will be reassigned.

Evaluation and assessment of children in special education programs are confidential and may be used only fo[illegible]e administration of special education, including, but not limited to, inspection by the department and regional and state advisory councils to insure that every program benefits children assigned to it. **(Sec. 3, Ch. 71B, 1972)* (L)**

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No results of standardized or local tests of ability, aptitude, attitude, affect, achievement or aspiration may be used exclusively in any selection of children for referral, diagnosis, or evaluation. These tests must be approved by the department according to all regulations issued by the board to assure that they are as free as possible from cultural or linguistic bias or whenever necessary separately evaluated with reference to the linguistic and cultural group to which the child belongs. **(Sec. 7, Ch. 71B, 1972)* (L)**

A child placed in a special education program as of the effective date of this act (September 1, 1974) is presumed to be appropriately assigned to the program until an evaluation according to the provisions of **Sec. 3, Ch. 71B** indicates that another program would benefit the child more. **(Sec. 16, Ch. 1B, 1972)* (L)**

No child with special needs in a program on the effective date of the act may be removed from the program without written consent of his parents, guardians, or other person with custody of the child. **Sec. 17, Ch. 71B, 1972)* (L)**

Speech and hearing clinicians in consultation with classroom teachers and administrative officers should determine the eligibility of children for the speech correction program. **(R)**

Assignment to lip-reading and auditory training periods should be based on the joint decision of the audiologist, teacher of speech and/or hearing handicapped, classroom teacher, and parent with full consideration of the recommendations of the otologist, if one has been consulted. **(R)**

Inclusion in the program for speech or hearing handicapped children should be mandatory up to grade 9 and voluntary thereafter. **(R)**

Parents or teachers may request an initial evaluation of a child; such request should be written and will be acted upon by the school superintendent or his delegate within 30 calendar days. Prior to undertaking evaluation, the parents of the child shall be invited by the principal, by a letter to come to the school or otherwise to meet with him to be informed of the need, purpose and nature of the evaluation proposed, and to solicit the cooperation of the parents in the evaluation. **(R)**

Each public school department or district shall assemble or arrange for the services of a core evaluation team. If a school department or district does not have itself a sufficient staff to meet this requirement, local private resources and department of mental health area and regional facilities shall be employed at school expense for partial or full evaluation services. A private agency may supply or be employed to supply some or all evaluation requirements, if approved by joint department of education/mental health/public health action. **(R)**

The evaluation shall consist of the following components:

1. An assessment of the child's current educational status by a special education teacher or a person otherwise approved by the department of education. Assessment shall include appraisal of current school achievement or readiness, as appropriate, and teacher's report of observed adjustment and capabilities, noting such factors as attentional factors, coordination, activity level, expressive and receptive language capabilities.
2. An assessment by a licensed physician, to include a general physical examination of the child.
3. An assessment by a certified, or certifiable, licensed or licensable school or child psychologist. Assessment shall include an individual examination of the child, covering cognitive, personality, behavioral, social and cultural factors, and other psychological factors pertinent to the child's learning capacity. The assessment shall cover the child's potential for functioning in a regular classroom and the probable advantages and disadvantages of alternative instructional arrangements.
4. An assessment of pertinent family history and home situation factors and with prior parental consent, a home visit by a registered school, visiting or public health nurse, a guidance or adjustment counselor or an MSW social worker. This assessment shall include estimates of adaptive behavior at home, in the neighborhood and in local peer groups. A form shall be provided to the parent for writing critical aspects of the child's history and condition, or other relevant comment, information or suggestions.

To the core evaluation as detailed above shall be added, on the core team's recommendation such studies in further professional or technical specialty area or into further depth or detail as the core examiners may judge necessary, in regard to neurological, language, audiological, opthamological, psychiatric, learning problem or other possibly significant disorder. Findings of such additional studies shall be incorporated into the conference report. **(R)**

No child in an SLD program may be placed or accommodated in an area or in a manner substantially separate from regular educational programs of the school unless the evaluation report recommends it as necessary to meet the child's educational needs. Untimed tests, use of tape recorder, oral tests, tutorial help, or use of an amanuensis may be recommended for use within the regular classroom in the evaluation report. In the event that a substantially separate educational provision is recommended, the school shall arrange an educational plan that maintains some substantial aspects of integration of the child within regular educational programs and normal activities of the school day. **(R)**

It is not unlawful for a school system to require any child to be examined to determine the number of children in the district who may be mentally retarded. **(Op. Att'y. Gen., May 27, 1927)**

ADMINISTRATIVE RESPONSIBILITY

[All special education programs supported wholly or partly by the state department of education are directed and supervised by the division of special education. The division may approve the purchase, lease, and maintenance of special audio equipment and instruction outside the classroom for physically handicapped children unable to attend public school, and the division is responsible for compliance by city, town, or regional school districts with the special education program, the instruction of educable and trainable mentally retarded children and physically handicapped children. **(Sec. 69-29A, Mass. Gen. Law)](L.)**

The department shall, in cooperation with the departments of public health, mental health, and welfare, establish regulations for programs for children with special needs. These regulations must include, but are not limited to, a definition of special needs, emphasizing a thorough, narrative description of each child's developmental potential to minimize the possibility of stigmatization and to ensure the maximum possible development of each child. The definition must have the flexibility to include children with multiple needs. **(Sec. 2, Ch. 71B, 1972)* (L.)**

The powers and duties of the division of special education include the following:

1. to regulate, consult with, and assist school committees to identify, classify, refer and place children requiring special education;
2. to regulate all aspects of and assist in the development of all special education programs either partly or wholly state supported;
3. to coordinate the expertise of professionals from appropriate disciplines within and without the department of education and to coordinate the services of all state agencies providing educational assessment and educational services to children requiring special education;
4. to compile data on and require all public schools and agencies and any private schools or agencies receiving funds, to provide information relating to all children requiring special education and in all special education programs either wholly or partly state supported;
5. to periodically review and analyze the data mentioned above to evaluate programs and disseminate statistical data upon request to any citizen or agency within the state. All records pertaining to individuals are confidential;
6. to develop and recommend to the state board certification standards for educational personnel employed in the special education programs and regulations encouraging a greater use of ancillary personnel;
7. to develop public information programs regarding the nature and extent of special education needs of children and the availability of special education programs to meet these needs;
8. to cooperate with and assist public and private colleges and universities to develop courses and programs to prepare graduates to serve the educational requirements of these children;
9. to receive and investigate complaints and to conduct public and executive hearings with subpoena power on behalf of an individual child or a group of children receiving or requiring special education and regarding any aspect of any special education program and to initiate its own investigation without a complaint;
10. to receive and allocate federal and state funds subject to the priorities of this law and the state board;
11. to recommend to the board of education any rules, regulations, or guidelines and to issue any necessary directives to carry out this law and to execute any other provisions relative to administering special educational programs;
12. to provide for the maximum practical involvement of parents of children in special education programs in the planning, development, and evaluation of programs in the districts serving their children;
13. to approve the purchase, lease, and maintenance of all special education equipment for the instruction outside of the classroom of handicapped children for whom attendance in public school is unfeasible and to regulate the conditions under which a child may be considered so handicapped;
14. to investigate into and hold hearings upon prima facie denials of equal educational opportunities "by reason of national origin, sex, economic status, race, religion, or physical or mental handicaps of school age children requiring special education." The division may issue any declaratory and injunctive orders necessary to cure any actual denials of equal educational opportunity because of discrimination on basis of any of the above;
15. to require public and private schools or education agencies receiving state funds to establish cost accounting and reporting procedures, forms, schedules, rates, and audits conforming with department standards and to report to the department as required;
16. •to conduct or contract with any federal, state, or private agency research and development projects to improve special education program quality or efficiency;
17. to allocate resources proportionately if funding shortages occur;
18. to place children in special schools or agency programs near their residences and to allow other placements if suitable public programs and services are unavailable;
19. to take all steps including but not limited to public hearings, and investigations to insure that local and state expenditures provide the maximum feasible benefit to all children requiring or receiving special education;
20. to develop and recommend appropriate parent counseling or educational programs necessary for the child's educational development; and
21. to recommend to the board that special education funds be withheld from cities, towns, school districts, private schools, or agencies not complying with regulations or not carrying out plans for compliance within a reasonable period of time, however, the board is not prevented from withholding state and federal funds to the extent deemed necessary in **Section 1G, Ch. 15. (Sec. 1M, ch. 15, 1972)* (L.)**

The division must have a sufficient number of bureaus to enable it to carry out its functions. The board upon the commissioner's and associate commissioner's for special education recommendation will appoint a director with experience in the education of such children for each bureau. One bureau will be responsible for holding hearings and conducting investigations mentioned previously in numbers eight, thirteen and eighteen above. **(Sec. 1N, Ch. 15, 1972)* (L)**

In each department of education regional office there must be a regional branch for the division of special education. Each branch will be headed by a director chosen in the same manner as directors of the division's bureaus.

Regional branches will have the following functions:

1. to consult with and assist school committees in implementing regulations, guidelines, and directives of the department;
2. to assist directly school committees in identifying, diagnosing and evaluating children with special needs and developing special programs to meet their educational needs;
3. to approve all special education placements made by school committees;
4. to assist and encourage implementation of joint agreements between two or more school committees to provide special education;
5. to investigate and evaluate any special education program at the department's request or on its own initiative;
6. to maintain a list and inform school committees of professional personnel within and without the region qualified to assist these children and to make this information available upon request to parents, guardian, or persons having custody of such children; and
7. to have any other responsibilities delegated to it by the department. **(Sec. 10, Ch. 15, 1972)* (L)**

Departments issuing regulations according to Chapter 71B must make these regulations available at least six months prior to the effective date of the act to a committee for review. The committee will be appointed by the board for that purpose alone. Representatives of several types of institutions now serving children with special needs both public and private and members experienced in providing educational services to the several existing categories of children with special needs shall be represented on the committee. Further, parents of children with special needs who are in both public and private programs, classroom teachers, teachers primarily of children with special needs and persons directly affected by the special education act or having experience in the implementation of programs for children of special needs will also be on this committee. For each statutory category of children with special needs at least one member knowledgeable and experienced in working with that category of children must be included on this committee. **(Sec. 19, Ch. 71B, 1972)* (L)**

The department of education after consulting with the departments of mental health and public health is responsible for defining the circumstances in which school committees may be required to provide special classes, instruction periods, or other special education programs for school age children with special needs and shall also provide standards for class size, curriculum, personnel, and any other aspects of the special education program. **(Sec. 9, Ch. 71B, 1972)* (L)**

The department will maintain a school department for school age children in all institutions under the control of the departments of mental health, public health, and youth services, that will provide support and care for resident children with special needs. They will act jointly with the department having control over the particular institution, but appropriation for the administration of the school departments will be administered by the department of education. School departments will be administered by a director appointed jointly by the commissioner of education and the superintendent of the institution. Each department will have a staff as determined jointly by the two departments. The school departments will operate according to regulations established jointly by the department of education and the department administering the particular institution. Nothing in this section will affect the continued authority of departments operating these institutions over all noneducational and all treatment programs for residents or patients in the institutions under their control.

The director and staff of each school department will be employees of the department of education, which will assume the cost of all aspects of the educational program in institutions operated 12 months of the year. The salaries paid must be at least equivalent to the average state wide public school salaries of comparable personnel in the public schools, adjusted to account for the longer school year. Benefits paid to such personnel will be similarly comparable to those of public school personnel. Nothing in this section shall operate to remove from employment any educational personnel already employed by any institution now under the administration of the departments of mental health, public health or youth services or to reduce their salaries or other employee benefits.

The per capita expenditure on education programs in each school department will be equivalent to or higher than the average expenditure for special education programs in the public schools in the state less the average transportation cost. The average expenditure will be computed annually by the department.

The city, town, or regional district of residence shall pay to the state the cost of the child's program in the institution as determined by regulations; however, the payment of each child shall not be less than the average per pupil cost for children of comparable age within the city, town, or school district. The amount due the state each year will be deducted from the annual distribution to the city, town, or school district. **(Sec. 12, Ch. 71B, 1972)*(L)**

A supervisor of speech handicapped and hard of hearing children safeguards the needs of the thirty-two thousand (32,000) speech handicapped and hard of hearing children who were given speech therapy and lip-reading and auditory training in almost two hundred twenty-five (225) communities of the commonwealth last year. This supervisor evaluates the special instruction in speech therapy and lip-reading and advises school administrators on manners and modes of setting up programs. The education of approximately one hundred aphasic children, described in regulations passed by the board of education as children having adequate intelligence and hearing to learn speech, no severe emotional disturbance and no paralysis involving the vocal structures, and yet unable to speak or understand speech, constitutes a most important segment of the bureau's responsibilities. **(R)**

At the request of the parents or an interested party, the governor may send deaf mutes and blind children to various institutions for their care and education for ten years. The parents can request for a certain school or institution. Although not all blind or deaf children are sent, the governor can make no distinction based on wealth or poverty as the expenses are borne by the Commonwealth of Massachusetts. **(Op. Att'y. Gen., December 24, 1887)**

PLANNING

The secretaries of the executive offices of human services and education must jointly submit an annual report to both the governor and the legislature to evaluate the success with which their departments have cooperated to implement the legislation establishing the state and regional advisory councils and submit any recommendations for approving the ability of this state to meet the needs of such children. **(L)**

Because present inadequacies and inequities in providing special education services have resulted largely from a lack of significant parent and lay involvement in overseeing, evaluating, and operating special programs, this act is designed to insure this involvement by creating regional and state advisory committees with significant powers and specifying an accountable procedure to evaluate each child's needs before placement in a program and periodically thereafter. **(L)**

A state advisory commission for special education will be formed consisting of two members elected from each of the regional advisory councils, at least one of whom, will be a parent or guardian of a child receiving special education. The commissioners of the departments of mental health, public health, and public welfare will each appoint a representative to serve as an ex-officio member of the commission. Members will be reimbursed only for necessary expenses incurred in the performance of their duties. The commission shall submit an annual report to the department evaluating the quality and adequacy of special education programs and recommending any improvement. The department will implement the recommendations of the commission or will state in a written reply why the recommendations cannot or should not be implemented. In these circumstances, the bureau responsible for hearing complaints and conducting investigations in the division of special education will attempt to resolve the disagreement informally; however, if a settlement cannot be reached the state board will conduct public hearings to investigate the basis of the disagreement and resolve any dispute between the commission and the department. **(L)**

In each region there must be a special education advisory council consisting of at least 16 members appointed by the department after consulting with the regional branch director. At least eight of the members must be parents residing in the region with children in special educational programs, however, no more than two parents may have children not attending public school day programs. Each member is appointed for three years and none may be appointed for more than two consecutive terms. Each council shall advise the regional branch regarding all aspects of special education within the region and will submit a written annual report on the quality and adequacy of the region's program to the state advisory commission. In addition, the council shall hear and transmit to the state advisory commission complaints and suggestions of persons interested in special education in the region. Council members shall be granted access to special education programs and information about these programs subject to the board restrictions regarding confidentiality. The regional branch of the division of special education will assist them in carrying out these duties. Members of the council will be reimbursed by the state for necessary expenses only. **(L)**

Under the provisions of General Laws, Chapter 71, Section 46, a school district *may* establish special classes for the educable and trainable retarded children in the district regardless of the number. If there are less than 10 mentally retarded children in the district, upon the approval of the Department of Education, a school system may join other districts to establish joint programs. **(Op. Att'y. Gen., November 20, 1959)**

FINANCE

One-half the cost of instruction and training of special classes or special instructional periods for the mentally retarded, physically handicapped, emotionally disturbed, learning disabled, and partially seeing in special schools or public school, including necessary travel expenses whether daily or otherwise, is reimbursed by the state with the approval of the department of education.]

[One-half the expense of purchasing, leasing, or maintaining special audio equipment for physically handicapped children is reimbursed from the local aid fund (**Sec. 69-29C, Mass. Gen. Law)](L)**

[If a town furnishes instruction to a physically handicapped child in a hospital, sanatarium, or a similar institution located within its boundaries and the child is not a legal resident of the district, the district of residence will pay tuition to the town furnishing instruction. By July 15 yearly, the town furnishing the instruction will submit to the department of education an itemized statement of the actual cost of instruction for children confined in hospitals, including cost for teachers, textbooks, supplies, and general control. The department will determine the reasonableness of the costs and by the 1st of September will notify the town if its statement is approved or, if disapproved, shall send the town its own determination of reasonable costs. The approved cost will be divided by the pupil's days of instruction. The result constitutes the daily tuition for the pupil paid for by the town where the parent or guardian has a legal residence. **(Sec. 71-46A, Mass. Gen. Law)](L)**

The state reimburses cities, towns, and regional school districts for the purchase, lease or maintenance of special audio-visual equipment for the mentally retarded, physically handicapped, speech handicapped, blind, and visually handicapped. **(Sec. 71-46F, Mass. Gen. Law)(L)**

Any school committee providing or arranging for special education services will pay for special education personnel, materials and equipment, tuition, room and board, transportation, rent and consultant services necessary to provide these services. A school incurring obligations as a result of **Chapter 71B** must include in its budget for the fiscal year beginning September 1, 1973, and annually thereafter funds sufficient to comply with the provisions of this chapter. The amount will be added to the annual budget appropriation for school purposes and will be a portion of the amount necessary in each city or town "for the support of public schools for the purposes of, and enforceable pursuant to, Section 34, Chapter 71, notwithstanding any general or special laws or charter provisions which limit the amount of money that may be appropriated in any city or town for school purposes." **(Sec. 5, Ch. 71B, 1972) * (L)**

Costs of instruction, training, and support including the cost of special education personnel material, equipment, tuition, transportation, rent, and consultant services of children in special classes, instruction periods or other programs shall be reimbursed for the cost exceeding the average per pupil expenditure of the city, town or school district for the education of children of comparable age by the state. However, the amount of this reimbursement for each pupil in the city, town, or school district can not exceed 110 percent of the applicable state average expenditure for each special education pupil minus that state average expenditure. The department shall differentiate between types of programs on the basis of the amount of time a child requires special programs outside of the regular classroom to meet his particular needs and the ratio of personnel required for these programs. This reimbursement is made only after approval and certification by the department that these are reasonable expenditures and the funds were actually expended in special education classes and instruction programs meeting state standards and requirements. The costs for each special education pupil shall be "reimbursable expenditures within the meaning of **Chapter 70**, in an amount not exceeding the average pupil expenditure for the city, town or school district and will be reimbursed under **Chapter 70**."

Any reimbursement to cities and towns will be made to the school committees of the cities and towns and will be applied to the cost of program. **(Sec. 13, Ch. 71B, 1972)* (L)**

By November 20th annually the state treasurer will pay to any city or town or regional school district sums as certified by the commissioner for special equipment purchased, leased and maintained or for class or special instruction periods conducted **(Sec. 14, Ch 71B, 1972) * (L)**

The amount reimbursed to a city, town or school district under **Section 13 of Chapter 71B of the General Laws,** inserted by **Section 11** of this act, combined with reimbursements for special education pro-

grams under Chapter 70 of the General Laws shall not be less than the reimbursement for special education **programs** received for the fiscal year 1974, until and unless said city, town, or school district qualifies for a less amount after September 1, 1979. **(Sec. 21, Ch. 71B, 1972)* (L)**

A local school committee is not responsible for more than the average per pupil cost for pupils of comparable age within their city, town, or school district, as share of the cost of continuing placements for those children with special needs who are enrolled in an institution with the state paying the tuition at the effective date of this act. **(Sec. 18, Ch. 766, 1972)* (L)**

Communities without teachers of speech and/or hearing handicapped children may send such children to neighboring cities offering approved programs and may receive reimbursement for 50% of the tuition charges and transportation costs involved, provided that these items have received prior approval from the department of education. **(R)**

The following items may be considered in determining the cost of speech and hearing programs for reimbursement purposes:

1. Salaries of certified teachers of speech and/or hearing handicapped children, provided that not more than one-tenth of the teacher's time is spent in speech improvement and provided that any audiometry performed be threshold audiometry. Speech improvement time in excess of one-tenth of the work week or time spent in screening audiometry may not be considered for reimbursement.
2. Approved charges for public school teachers engaged in language training and concept building with speech and/or hearing handicapped children.
3. Salary of supervisors or consultants in programs for speech and/or hearing handicapped children.
4. Proportionate share of salary of local psychologist based on services actually rendered.
5. Transportation provided for speech and/or hearing handicapped children under the provisions of **General Laws, Chapter 69, Section 29B**, or **General Laws, Chapter 71, Section 46B**.
6. Equipment designed solely for use with or identification of speech and/or hearing handicapped children. **(R)**

Teachers in these programs (who do not receive travel expenses from public schools) should be paid from $200.00 to $300.00 more per year than regular teachers of equivalent education and experience in order to compensate for the expenses of automobile travel. **(R)**

The total costs of the instruction, training, and support of deaf, blind and aphasic children may be paid under varying circumstances.

1. Residential schools – under **Ch. 69, Sec. 26** the state assumes the total cost of educating deaf, blind and aphasic children in residential schools.
2. Day schools and/or day classes – under **Ch. 69, Sec. 28 and 33**, the state assumes the total cost of the instruction, training and support of children enrolled in day schools or day classes for the deaf or blind. This is accomplished by reimbursing cities and towns at the close of the school year for total approved costs.
3. Under **Ch. 69, Sec. 28A**, the state reimburses cities and towns for the total amount of the salary differential paid to teachers of the deaf in public schools of up to $500.00.
4. Under **Ch. 69, Sec. 33**, the state assumes the total cost of proving readers and instructors in braille for blind children attending regular grades. **(R)**

Reimbursement for the following items may be requested by districts providing day classes for the deaf:

1. salaries of teachers of the deaf and helping teachers;
2. differential for certified teachers of the deaf;
3. fees paid to consulting psychologists with special training in testing and counseling deaf children for work with the children in day classes; and
4. equipment purchased specifically for the class for the deaf and not useful for regular classes of hearing children (special audio equipment, sound proofing materials, auditory training records, etc.) **(R)**

Ch. 69, Sec. 29B provides for the reimbursement of one-half the cost of the instruction, training and support of children in the special classes or special instruction periods offered under **Ch. 69, Sec. 29 and 32**, and **Ch. 71, Sec. 46K and L**. Such reimbursement may include:

1. salaries of approved teachers;
2. salary of a supervisor of special classes, if one is employed;
3. proportionate share of salaries of other supervisors, such as art, music, physical education, audio-visual education, based on actual supervisory services rendered;
4. proportionate share of salary of approved local psychologist, based on actual services rendered; and
5. books and supplies consumable in use. **(R)**

Fifty percent of the cost of transporting children who are speech handicapped or hard of hearing or perceptually handicapped, is reimbursed to cities and towns for such transportation under the provision of **Ch. 71, Sec. 46B** or **Ch. 69, Sec. 29B**. Transportation costs shall be ordinary and reasonable. **(R)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

[The department of education shall in any town, city or regional district where a deaf child resides, in cooperation with the local school committee, establish day-class programs for deaf children in the public schools. If there are less than five children residing in any city, town or regional school district, the department may provide for the establishment of cooperative programs with adjacent towns, cities, or regional districts. All programs will be coordinated on a regional, statewide basis according to the regulations of the department including matters pertaining to establishment of classes, curriculum, and conditions of instruction, physical facilities and equipment, class composition and size, admission of students, and requirements respecting all services. Cost of the programs including transportation will be paid by the state from the local aid fund subject to appropriation.] (L.)

[In any city, town, or regional district with children with impaired hearing, the department (in cooperation with school committees) shall establish day classes or resource teacher programs. If there are less than five children with impaired hearing in a district, provision may be made by the school committee with the state department of education for an approval of placement in a cooperative program with adjacent cities and other regional school districts. The cost of the programs including transportation is paid by the state from the local aid fund.] (L.)

[Any town, city or regional school districts with the approval of the appropriate department may join with another town, city or regional district to provide for special instruction for mentally retarded, physically handicapped, speech handicapped, blind, visually handicapped, emotionally disturbed children, and children with learning impairments.] (L.)

To provide special education for all children needing it, the school committee of any city, town, or school district may enter into an agreement with any other school committee to jointly provide special education or, subject to the consent of the parent or guardian or any constitutional limitations, may enter into agreement with a public or private school, agency, or institution to provide the necessary services within the city, town, or school district. (L.)

When school committees jointly provide special education, an agreement will designate one city, town, or school district as the operating agency. The funds received by the operating agency from other cities, towns, or school districts or appropriated by the agency to fulfill the obligations of the agreement in addition to any gifts or grants will be deposited with and held as a separate account by the agency's treasurer. The school committee may apply these funds to the cost of programs operated under this agreement without any further appropriations.* (L.)

Because professional services and resources must be available to cities, towns, and regional districts on a regional basis, if this program is to be successfully implemented within a reasonable time period, this act strengthens and regionalizes the division of special education in the department of education and provides for meaningful cooperation among agencies concerned with children with special needs.* (L.)

SERVICES

[When providing homebound instruction, local school committees may purchase, lease, and maintain special audio equipment approved by the division of special education. **(Sec. 71-46A Mass. Gen. Law)] (L.)**

[If a mentally retarded, physically handicapped, or emotionally disturbed child or a child with learning impairments attends school or an occupational training program within or without the city or town of his residence, the school committee of the town of his residence shall provide transportation once each day to and from the school or occupational training program. The city or town providing the transportation is eligible for reimbursement for one-half the cost of such transportation. **(Sec. 71-46B, Mass. Gen. Law)] (L.)**

[The department cooperates with cities and towns to establish recreational programs for physically and mentally handicapped persons. These programs are under the direction of the division of special education. One-half the cost, including transportation to and from the site of the programs, is reimbursed by the state. Cities and towns may also be reimbursed one-half the cost of transportation for the persons attending recreational programs at the Walter E. Fernald State School, Wrentham State School, Myles Standish State School, and Belchertown State School. This reimbursement is paid out of the local aid fund. **(Sec. 69-29D, Mass. Gen. Law)](L.)**

[Teachers of children with learning disabilities must have special qualifications. These teachers may be hired as consultants and any probationary period may be waived for the purposes of obtaining certification. **(Sec. 71-46K, Mass. Gen. Law)] (L.)**

" 'Regular education,' the school program, and pupil assignment which normally leads to college preparatory or technical education or to a career."

" 'Special education,' educational programs and assignments, namely special classes, programs or services designed to develop the educational potential of children with special needs but not limited to educational placements of children by school committees, the departments of public health, mental health, and youth services and the division of family and children's services in accordance with the regulations of the department of eduation." **(Sec. 1, Chapter 71B)* (L.)**

Children receiving or requiring special education are entitled to participate in any of the following types of programs:

1. supplementary direct or indirect instruction, consultation service, materials, equipment, or aid provided to children or their regular classroom teachers directly benefiting such children;
2. supplementary individual or small group instruction or treatment in conjunction with a regular classroom program;
3. integrated programs during which a child may be assigned to special resource classrooms but attends regular classes to the extent he is able to function within them;
4. full-time special class teaching or treatment in a school building;
5. treatment or teaching at home;
6. full-time teaching or treatment in a special day school or other type day facility;
7. teaching or treatment at a hospital;
8. teaching or treatment at a short-or long-term residential school;

9. occupational and preoccupational training in conjunction with the regular occupational training program in a public school;
10. occupational and preoccupational training in conjunction with a full-time special class in a public school building, at home, special day school, or other day facility, hospital, or short-or long-term residential school; or
11. any combination or modification of the above programs or other programs, services, treatments, or experimental provisions that have prior approval of the department. **(Sec. 2, Ch. 71B, 1973)* (L)**

Admission to programs on a preschool level (at an earlier age than which schooling is ordinarily provided) is regulated by the department in connection with the public health and mental health departments and is restricted to children with substantial disabilities and adjudged by these departments to require special preschool programming **(Sec. 2, Ch. 71B, 1972)* (L)**

The department, in cooperation with cities and towns, is to establish recreation programs for school age children with special needs. The programs will be under the direction and approval of the division, and the department will reimburse cities and towns for one-half the cost, including transportation of children to and from the program each day it is held. The department will fully reimburse the city or town in which the children are residents for the cost of transportation to and from a recreation program at any state facility conducting approved recreation programs. **(Sec. 11, Ch. 71B, 1972)* (L)**

If a school age child with special needs attends a school approved by the department within or out of the city or town of residence of the parent or guardian, the school committee of residence may be required to provide transportation once each day including weekends, wherever applicable to and from school. When a child is in attendance, reimbursement will be provided to the city or town providing transportation according to **Section 13, Chapter 71B. (Ch. 71B, 1972)* (L)**

A city or town providing instruction to a child who is a resident of an institution but not a resident of the city or town may receive from the state the school expenses incurred by the child's attendance, to be determined jointly by the school committee of the city or town and the department of education, or, in the case of a disagreement, by the Probate Court. The amount received by a city or town is limited to the annual per pupil cost of education as determined under **Section 7, Chapter 76.** No costs may be reimbursed under this section which would be reimburseable under **Section 13, Chapter 71B. (Sec. 11, Ch. 76, 1972)* (L)**

The total number of public and private school children instructed by any one teacher of speech and/or hearing over a period of one school year shall not exceed one hundred (100) without the permission of the department.

Each speech and/or hearing handicapped child in the program shall receive at least two special instruction periods weekly, each period consisting of not less than twenty minutes and conducted during the regular school day. With the permission of the Department in each case, these periods may consist of special language training and concept building essential to certain types of speech and/or hearing problems.

Program must be approved by the department before being inaugurated. The minimum part-time program shall consist of two half-days per week in order that each child may be seen twice weekly.

Specific times shall be allotted each teacher of the speech and/or hearing handicapped to be used for coordination duties, to visit school administrators, teachers, or parents, to carry out special diagnostic speech, language or hearing tests, interview pre-school children or perform other special work. **(R)**

School systems may wish to operate special summer programs for speech and/or hearing handicapped children. If state reimbursement is to be requested, the school system may not charge fees for such programs. **(R)**

In any city, town or regional school district where any deaf child resides, the department shall, in cooperation with the school committee, establish day class programs for deaf children in the public schools. If less than five deaf children reside in any city, town, or regional school district, the department, with the approval of such city, town or district, may provide for the establishment of co-operative programs with adjacent cities, towns or regional school districts. All programs shall be coordinated on a regional state-wide basis according to regulations established by the department, including matters pertaining to the establishment of classes, curriculum, and the conditions of instruction, physical facilities and equipment, class composition and size, admission of students and requirements respecting all services to be provided. **(R)**

Costs of such programs, including the costs of reasonable and ordinary transportation for such children, shall be paid by the commonwealth from the local aid fund, subject to appropriation. **(R)**

The school committee of any city, town or regional school district where there is any child who is speech handicapped may provide special instruction periods for such child in a place under the control of such school committee or at such place and under such conditions as it may arrange. If any child whose hearing is impaired can benefit from language training, lip reading or auditory training, the school committee shall provide such instruction. Programs for speech handicapped children or for children whose hearing is impaired shall be subject to regulations prescribed by the department. **(R)**

In any city, town, or regional school district in which children with impaired hearing reside, the department shall, in cooperation with the school committee, establish day classes or resource teacher programs subject to regulations prescribed by the department. If less than five children with impaired hearing are resident within a city, town or regional school district, provision may be made by the school committee with the department for approval of placement in cooperative programs with adjacent cities, towns, or regional school districts. **(R)**

The terms "school for the deaf," "school affording remedial treatment for the deaf", and "special day classes for deaf pupils" as applied to the educational placement of deaf children, shall mean those public or private schools for the deaf staffed by trained teachers of the deaf and those public school day classes for the deaf taught by certified teachers of the deaf, with both schools and classes employing a curriculum based on speech reading, auditory training, and language and speech development for the deaf. **(R)**

With the approval of the department, deaf children may enter appropriate day classes in the facilities described above at the age of two years. This training shall include appropriate instruction and education of the parents of said children. **(R)**

The maximum number of pupils for a day class for the deaf in the public schools shall be eight for one teacher. With permission of the department, such a class may contain more than eight pupils, provided that another certified teacher of the deaf is hired to assist the original teacher. Certified public school teachers may be employed as "helping teachers" until such time as a certified teacher of the deaf is available, but the former shall not be eligible for the differential paid under the provisions of **Chapter 69, Section 28, of the General Laws. (R)**

With the permission of the department, the services of psychologists specially trained and experienced in testing and counselling deaf children may be provided for the day classes for the deaf and day schools for the deaf. **(R)**

Guidelines for programs for the hearing impaired include:

1. Teachers of the deaf shall teach both hard of hearing and deaf children.
2. Each classroom shall be equipped with the highest quality group amplification available and maximum use of this equipment shall be made by the teachers of the deaf.
3. All hearing impaired children enrolled in special programs shall be taught by teachers of the deaf to whom they are assigned except during those periods when these children are participating in a program allowing for periods of integration or when the teacher of the deaf is attending a professional meeting.
4. The supportive services of specialized personnel such as physical education teachers, music and art therapists, audio-visual aid specialists, psychologists, and similar personnel shall be utilized whenever possible.
5. Teachers of the deaf shall not be removed from their classrooms for assignment to classes designed for non-hearing impaired children without prior consultation with the bureau.
6. The location of all classes shall be subject to the approval of the bureau. Whenever possible these classes shall be housed in a public school classroom building.
7. In addition to regular classroom physical facilities, preschool classrooms shall be equipped with lavatory facilities and all classrooms provided with acoustic ceiling and carpeting whenever it is appropriate.
8. The staff of every class for the deaf shall consist of a teacher of the deaf and a teacher aide.
9. Classes shall be taught by teachers of the deaf certified by the state as teachers of the deaf or teachers actively working toward certification in deaf education.
10. Requests for permission to deviate from the policy, curriculum and philosophy of the bureau must be made **a priori** in writing.

Any school committee arranging for special educational services will pay for transportation necessary to provide these services.*

[Travel expenses, daily or otherwise, to private schools or institutions (in-state or out-of-state) will be paid by the state. However, parents may be required to reimburse the state for all or part of the cost.] Transportation of children to and from approved pre-nursery programs conducted by the department of mental health may be reimbursed. **(L)**

If a school age child with special needs attends a school approved by the department within or out of the city or town of residence of the parent or guardian, the school committee of residence may be required to provide transportation once each day including weekends, wherever applicable to and from school. When a child is in attendance, reimbursement as above will be provided to the city or town providing transportation.* **(L)**

It is the responsibility of the parent or guardian of any handicapped child attending a private school or institution at public expense, to utilize the safest, most economical method of transportation when long distances are involved. Detailed costs of alternate methods must be submitted in advance to the division of special education which will approve that method best meeting these requirements. Unless such prior approval is obtained, reimbursement cannot be made. A rate of five cents per mile round-trip for the use of private automobile is allowed, if this method of transportation meets the requirements. Individual statements listing precise daily expenses by category (breakfast, dinner, train fare and motel fees) must be submitted in triplicate to obtain reimbursement. Transportation taxes cannot be reimbursed; tax exemption slips are available on written request. Only in exceptional cases will overnight lodging and expenses be approved. In every case, only ordinary and reasonable expenses will be approved. Reimbursement may be obtained for a maximum of three home visits annually: Christmas Vacation, Easter Vacation, and Summer Vacation. No reimbursement is possible for parent visits to the school. **(L)**

[Cost of transportation for programs for the deaf or hearing impaired will be paid by the state from the local aid fund subject to appropriation.] The state reimburses 50% of "ordinary and reasonable" transportation costs to cities and towns providing educational programs for physically and mentally handicapped persons. **(L)**

Class Size:

	NUMBER OF PUPILS Minimum	 Maximum
DEAF		
EDUCABLE MENTALLY HANDICAPPED	--	8*
Special Class (age range less than one year)		
Special Class (age range one year)	--	20
Special Class (age range two years)	--	19
Special Class (age range three years)	--	18
Special Class (age range four years)	--	17
Special Class (Age range five years)	--	16
Special Class (age range six years)	--	15
PHYSICALLY HANDICAPPED	--	14
Special Class		
VISUALLY HANDICAPPED	15	--
Resource Room - Partially Sighted		
Resource Room - Partially Sighted and Blind	--	18
BLIND	--	14
Resource Room	--	12

*Class size may be greater if another certified teacher is hired to help teach a given class.

Blind students at the Perkins Institution may be sent to other schools to take courses which are beyond those offered at Perkins. The care of the student is still the responsibility of the Perkins Institution. Tuition for the outside education is the responsibility of the pupil or Perkins Institution. The state is only to pay Perkins Institution the regular tuition rate and will not contract directly with the outside schools which some of the students attend. **(Op. Att'y. Gen., May 29, 1934)**

The Board of Education is to: (1) provide transportation for blind, deaf or aphasic pupils to a private school, named in Chapter 69, Section 26 of the General Laws, or to any other school; (2) pay the transportation cost of a guide or companion if needed for the blind, deaf or aphasic pupils if enrolled in a school. **(Op. Att'y. Gen., May 8, 1960)**

General Law Chapter 71, Section 46(I) enables the Department of Education, upon request of the parents and approval of the Governor, to send emotionally disturbed children to any school, hospital, institution, etc. Most of these schools run on a 10-month basis. A special school which operated only two months (during the summer) was established. The Attorney General said if the Department of Education and the Governor found that attendance during the two summer months was beneficial, then the program could be funded by the state. **(Op. Att'y. Gen., May 26, 1966)**

PRIVATE

[The department of education, upon the request of any parent or guardian and with the approval of the governor, may send any deaf, blind, or aphasic child for 12 years to the American School for the Deaf in Hartford, Conn., Clark School for the Deaf, Horace Mann School, Beverly School for the Deaf, Boston School for the Deaf, Rhode Island School for the Deaf in Providence, RI., or to any other school for the deaf or school with remedial treatment for the deaf either within or without the state as the parents or guardians may prefer, or to the Perkins School for the Blind, or any other school within or without the state providing instruction for the blind, or any school within or without the state providing instruction for aphasic children.]

[The schools must offer 9th, 10th, 11th, and 12th grade educational curricula equivalent to that of secondary schools of the state as determined by the department. Upon the request of a parent and approval of the governor, the department of education may continue instruction at these institutions for a longer term for children who are meritorious pupils recommended by the principal or other chief administrative officer of the school which they attend.]

[With the approval of the governor, the department may provide for the care and education of deaf-blind children or children who are both mentally retarded and blind. No child may be withdrawn from these institutions or schools without the consent of the authorities of the school or the department. The expenses of the instruction and support for the children, including necessary travel expenses are paid by the state. The parents or guardians of the child who are wholly or in part able to provide for their support and care, may be required to reimburse the state on an ability to pay basis. **(Sec. 69-26, Mass. Gen. Law)](L)**

[The education of all pupils in these institutions is supervised and directed by the department of education. **(Sec. 69-27, Mass. Gen. Law)](L)**

[Upon parental request, the department of education, with the approval of the governor, may provide for emotionally disturbed in a school, hospital, sanatarium, or any similar institution within or without the state, remedial treatment for a term not exceeding 12 years under joint regulations of the departments of education and mental health. The rules and regulations and the reimbursement for this program are the same as the program for the deaf, blind, aphasic children. **(Sec. 71-46I, Mass. Gen. Law)](L)**

[Under regulations of the departments of education, public health, and mental health and upon parental request and with the governor's approval, the department of education may send children having specific learning disabilities to any school within the state offering remedial treatment for these children. This program may continue for any term recommended by the principal or any other chief administrative officer of the school. **(Sec. 71-46L., Mass. Gen. Law)](L)**

[One-half of the cost of the instruction will be reimbursed by the department of education. **(Sec. 69-29B, Mass. Gen Law)](L)**

[Physically handicapped students (like deaf, blind and emotionally disturbed students and the learning disabled with the same type of regulations and with the Commonwealth paying all expenses) may be sent to schools within the state for remedial instruction. **(Sec. 71-46M, Mass. Gen. Law)](L)**

On an annual basis the department, when requested by the parent or guardian, and the recommendation of the local school committee, a regional branch of the division, with the secretary of educational affairs, may refer children requiring special education to any institution either in or out of the state offering curriculum, instruction, and facilities appropriate to the child's needs and approved by the department under regulations of the departments of education, mental health, and public health. The curriculum of these institutions must be equivalent insofar as the department deems feasible to the curriculum of children of comparable age and ability in a public school of the state. Prior to acting on any such request the department must determine the nature and extent of the child's special needs. They must require the local school committee and regional advisory council to prepare and submit plans detailing the time needed to establish adequate facilities for children with special needs in their own city, town or school district, and must ascertain whether adequate facilities and instruction programs are available and when adequate facilities can be made available in a city, town or school district of residence. Until adequate facilities are available the child will be placed in the most adequate programs available as determined by the department. The department shall further define by regulation the circumstances in which it would be directly responsible for placing children, and by the standards available to the public, determine the method and order of these placements, however, no child will be denied access to any programs operated by the departments of mental health, public health or public welfare, to which in the judgement of the operating department the child should be admitted.*

The expenses of the instruction and support actually furnished to the child, including traveling expenses, whether daily or otherwise, but not exceeding ordinary and reasonable compensation will be paid by the state, but the department shall issue joint regulations with the mental health, public health, and public welfare departments defining circumstances in which the state will be required to pay all of the cost and the cases when a parent or guardian may be required to reimburse the state for part or all of the cost. However, the cost to the school committee for such a placement cannot be less than the average cost per pupil of comparable age children within the city, town, or school district. In determining the cost to the parent or guardian, if any, no charge will be made for any educational support, only for support and care. In determining a parent or guardian's cost the department will apply criteria taking into account relative ability to pay.*

The department shall direct and supervise the education of all [illegible], and the commissioner will state in his annual report their number and cost of their instruction [illegible] support, the manner in which the appropriated money has been expended, and to what extent [illegible] and any other important information. Nothing in this clause affects the continued authority of the departments of mental health and public health over all non-educational programs and all treatments for residents and patients in institutions under their control. **(Sec. 10, Ch. 71B. 1972)* (L)**

PRIVATE

[Deaf, blind, deaf-blind, mentally retarded-blind, aphasic, learning disabled, emotionally disturbed, and physically handicapped children are eligible for private placement.] **(R)**

[Secondary school curriculum must be as nearly equivalent to that of the public schools as the department considers feasible. Teachers must be properly trained in the area of the disability of the children they are teaching.] **(R)**

[Curriculum for the deaf must be based on speech reading, auditory training, and language and speech development.] **(R)**

School age children with special needs who because of temporary or more permanent adjustment difficulties or attributes arising from intellectual, sensory, emotional, or physical factors, cerebral dysfunctions, perceptual factors, or other specific learning disabilities, or any combination, are unable to progress effectively in a regular school program and require special classes, instruction periods, or other special education services in order to successfully develop their individual educational potential are eligible for private placement. **(L)**

On an annual basis, the department of education, when requested by the parent or guardian and recommended by the local school committee, refers children to an institution offering curriculum, instruction, and facilities appropriate to the child's needs and approved by the department under joint regulations with the departments of education, mental health, and public health. **(R)**

Prior to acting on any such request, the department must determine the nature and extent of the child's needs. The department must require the local school committee and regional advisory council to prepare and submit plans detailing the time needed to establish adequate facilities for children with special needs in their own city, town or school district and must ascertain whether adequate facilities and instruction programs are available. Until adequate facilities are available the child will be placed in the most adequate facility available as determined by the department. **(L)**

The department shall further define by regulations the circumstances in which it would be directly responsible for placing children and by the standards available to the public, determine the method and order of these placements. However, no child will be denied access to any programs operated by the departments of mental health, public health, or public welfare, to which in the judgment of the operating department the child should be admitted. **(L)**

The expenses of the instruction and support actually furnished to the child, including traveling expenses whether daily or otherwise, but not exceeding ordinary and reasonable compensation will be paid by the state, but the department shall issue joint regulations with the mental health, public health, and public welfare departments defining circumstances in which the state will be required to pay all of the cost and the cases when a parent or guardian may be required to reimburse the state for part or all of the cost. However, the cost to the school committee for such a placement cannot be less than the average per pupil cost of educating comparable age children within the city, town, or school district. In determining the cost to the parent, if any, no charge will be made for any educational support, only for support and care. In the determination of a parent or guardian's cost, the department will apply criteria taking into account relative ability to pay. **(L)**

Placements may be made in schools both in and out of the state. **(R)**

The curriculum of approved private institutions must be equivalent insofar as the department deems feasible to the curriculum of comparable age children in a public school of the state. **(R)**

The department shall direct and supervise the education of all children, and the commissioner will state in his annual report their number and cost of the instruction and support, the manner in which the appropriated money has been expended, and to what extent reimbursed and any other important information. Nothing in this clause affects the continued authority of the departments of mental health and public health over all non-educational programs and all treatments for residents and patients in institutions under their control. **(L)**

Proposals by evaluation teams supporting parental request for private school placement shall be reviewed by the regional board for approval or disapproval. The board's recommendation shall be forwarded to the division of special education. Board and divisional approval of private school placements shall require that:

1. eligibility criteria are met;
2. the child's disability is of substantial severity;
3. an appropriate educational program to meet the child's needs cannot feasibly be established in the public school;
4. a private school is located within reasonable traveling distance; and
5. the private school's educational program serves a primary objective of remediation of the specific and severe learning disability and the return of the child to public school at the earliest feasible time. **(R)**

Institutions for the education of deaf mutes are not considered public or common schools. Thus the 18th amendemtn of the constitution does not apply, and there is then no reason why Catholic institutions cannot receive state appreciations for educating deaf mutes. **(Op. Att'y. Gen., November 15, 1899)**

Handicapped children attending private schools may take special courses in manual training at the public school. Because a student receives some education at a private school does not mean he or she can be barred from taking special courses at the public school.
(Op. Att'y. Gen., June 30, 1911)

"The Clarke School for the Deaf is a charitable institution, . . . and a report should be made annually to the State Board of Charity." **(Op. Att'y. Gen., March 11, 1914)**

The provisions of General Statutes 1918, Chapter 257, 171, enables payments to be made to private institutions of the care and education of blind or deaf children. These provisions do not violate Article XLVI of the Massachusetts Constitution. **(Op. Att'y. Gen., October 21, 1918)**

A doctor employed by a special school for handicapped children sent his twin boys to the school. He then asked that reimbursement be made for their care. He was not entitled to the reimbursement because the commitment of the children to the school was not given approval by the Department of Education or the Governor. Section 461, par. 1 of C. 71 of the General Laws states that prior approval must be given by the Department of Education and the Governor before expenses can be made for emotionally disturbed children in special schools or institutions. In this case, the parents sent the children and then asked for reimbursement. **(Op. Att'y. Gen., October 29, 1964)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Teachers of Special Schools and Classes (Certificate No. 9)

bachelor's degree including 30 hours in general and special education courses or three years as regularly appointed teacher plus special education courses (12)

FACILITIES

If a city, town, or regional district receives approval for a grant for construction of a school for the deaf or an addition to an existing school for the deaf, they receive a construction grant equal to 65 percent of the approved cost of construction. **(Sec. 69-28B, Mass. Gen. Law) (L)**

No school construction project will be approved, unless and until the school building assistance bureau and the division of special education are satisfied that adequate provisions have been made for children with special needs. **(Sec. 14, Ch. 76, 1972) (L)**

The rooms, buildings, play and other areas in which educational services are provided under these regulations shall not be segregated from and shall be at least equal to the average amenities available in regular school classes in the town. This shall apply to such factors as access, lighting, heating, sanitary, ventilation and recreational features. **(R)**

The equipment and materials used in educational services under these regulations shall meet the highest standards of modern education for the child with SLD needs, and shall be supplied in amounts meeting the approval of the department of education. **(R)**

STATE PROFILE

MICHIGAN

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

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b. Not more than the equivalent of ten full-time pupils diagnosed as having a moderate hearing impair-

RIGHT TO AN EDUCATION

Constitution: "Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and means of education shall forever be encouraged." **(Art XI Sec. 1, Mich. Const.) (L)**

"The Legislature shall continue a system of primary schools, whereby every school district in the state shall provide for the education of its pupils without charge for tuition . . ." **(Art. XI, Sec. 9, Mich. Const.) (L)**

Compulsory Attendance Law: Unless the parents or legal guardian of the child refuses to have the child medically or clinically examined, no child may be expelled or suspended from school because of a physical handicap unless the board of education obtains a certified statement from a physician that the child is so physically handicapped he should not attend school. No child may be excused because of a mental or emotional handicap unless the board of education has obtained a statement from a psychiatrist, a child center, or a clinic or other appropriate agency approved by the superintendent that the child is incapable of benefiting from public school attendance. **(Sec. 340.613 Mich. Stats.) (L)**

A local board may expel or suspend any pupil guilty of persistent disobedience or gross misdemeanor if the interests of the school demand it. If there is cause to believe the pupil is handicapped and has not been evaluated, he will be immediately evaluated by the intermediate district of which the local district is a constituent. **(Sec. 513, Mich. Stats.) (L)**

Responsibilities: Local boards may provide, and for the 1973-74 school year and thereafter shall provide, special education programs and services to develop the maximum potential of handicapped persons on its district's record under section 298c, for whom appropriate education and training programs can be provided under the intermediate district's plan in any of the following ways or a combination of them:

1. operate the program or service; or
2. contract with its intermediate district, another intermediate district or local district, an adjacent school district in a bordering state, the Michigan schools for the deaf or blind, the department of mental health or social services, or any combination of the above, to deliver special education programs or services. Districts may also contract with a state board approved agency for the delivery of ancillary professional education services. The local board's intermediate district must be a party to the contract even if not participating in the delivery of programs or services. **(Sec. 771a, [redacted]** Act # 198, Public Acts of 1971)

Beginning with the 1973-74 school year and continuing thereafter, if a local district claims an emergency exists because of extreme financial conditions, insufficient operating funds, or a severe classroom shortage, and that this emergency prevents it from providing special education in compliance with section 771a, the district must apply, in writing, to the state board by July 1 of that school year for approval to provide special education not complying with section 771a. **(Sec. 252b, [redacted]** Act # 198, Public Acts of 1971)

If the state board determines a district is not in compliance with Sec. 771a without prior approval, the state board is required to notify the district in writing of its noncompliance. If the district does not submit proof of compliance or of unforeseen emergency within 30 days after receipt of the notice, the state board shall direct the intermediate district of which the local district is a constituent to provide complying services and programs. The intermediate district shall provide only those programs or services not in compliance with section 771a. If an intermediate district is directed to provide programs, these programs will be funded as if conducted by a local district with the local district contributing to the intermediate district the unreimbursed cost of the programs or services. **(Sec. 252b, [redacted]** Act # 198, Public Acts of 1971)

The Michigan School for the Blind has no right to deny admission to a student just because classes for the blind are available in the child's home school district. **(Op. Att'y. Gen., March 1, 1960)**

In *Harrison v. State of Michigan*, the plaintiffs are the Coalition for the Civil Rights of Handicapped Persons and 12 handicapped children. Defendants include the state of Michigan, its department of education and mental health, the Detroit school board and its officers, and the Wayne County School District and its officers. It is alleged that plaintiffs have been denied right to education as guaranteed under Michigan law. It is acknowledged that a new 1972 law will make special education mandatory by 1973-74, although hearing and review are not provided for in this law. In the meantime, plaintiffs are still being denied their rights. General remedies sought are previously denied rights and appropriate placement for plaintiffs and their class within 30 days. The case was filed May 25, 1972 and dismissed October 30, 1972 on grounds that passage of the 1972 mandation statutes renders complaint moot. (lawsuit)

POPULATION

Definitions: " 'Handicapped persons' shall be defined by rules promulgated by the state board of education. Handicaps include, but are not limited to, medical, physical, emotional, behavioral, sensory and speech handicaps." **(Sec. 10, Act 198, Public Acts of 1971) (L)**

"A child is considered to have a speech handicap when his speech deviates from normal to the extent that communication is seriously impaired and/or inefficient. Therefore professional help is required to enable the child to communicate adequately."

"Speech handicaps may include: serious articulation problems, non-fluency (stuttering); cerebral palsy speech; cleft palate speech; delayed language; and voice defects." **(R)**

"Handicapped persons" means a person identified as severely mentally impaired, trainable mentally impaired, educable mentally impaired, emotionally impaired, hearing impaired, visually impaired, physically and otherwise health impaired, speech and language impaired, homebound, hospitalized or learning disabled, or having a combination of two or more of these impairments and requiring special education programs and services.

"Hearing impaired means a person identified by an educational planning and placement committee, based upon an evaluation by an audiologist and otolarynologist, and other pertinent information as having a hearing impairment which interferes with learning."

"Speech and language impaired means a person certified by a teacher with full approval as a teacher of the speech and language impaired, who has earned a master's degree and has completed at least five years of successful teaching of the speech and language impaired, as having one or more of the following speech, oral language and verbal communication impairments which interfere with learning or social adjustment: articulation, which includes omissions, substitutions or distortions of sound; voice with inappropriate voice pitch, rate of speaking, loudness or quality of speech; fluency of speech distinguished by speech interruptions (blocks), repetition of sounds, words, phrases or sentences which interfere with effective communication, and inability to comprehend, formulate, and use functional language.

" 'Learning disabled' means a person identified by an educational planning and placement committee, based upon a comprehensive evaluation by a school psychologist or certified psychologist or certified consulting psychologist or an evaluation by a neurologist, or equivalent medical examiner qualified to evaluate neurological dysfunction, and other pertinent information, as having all the following characteristics:

1. Disorders in one or more of the basic psychological processes involved in understanding or in using spoken or written language, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations.
2. Manifestation of symptoms characterized by diagnostic labels such as perceptual handicap, brain injury, minimal brain dysfunction, dyslexia or aphasia.
3. Development at less than the expected rate of age group in the cognitive affective or psychomotor domains.
4. Inability to function in regular education without supportive special education services.
5. Unsatisfactory performance not found to be based on social, economic or cultural background. **(R)**

The category of "otherwise physically handicapped" may be considered inclusive of the learning disabled child under Michigan law. The 1969 definition of learning disabilities used by the bureau of education for the handicapped says: "Children with special learning disabilities exhibit a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic. They include conditions which have been referred to as perceptual handicap, brain injury, minimal brain dysfunction, dyslexia, aphasia, etc. They do not include learning disabilities which are due primarily to visual, hearing, or motor handicaps, to mental retardation, emotional disturbances, or environmental disadvantage." **(R)**

Eligible Ages: Handicapped children are eligible for services from birth to age 25. [redacted] (Sec. 248c, Act #199 Public Acts of 1971)

Section 12 of Act 221, PA 1962, used the phrase "trainable individuals up to the age of 21, who are not currently eligible for mentally handicapped programs, Type A or B." A county district is eligible to set up programs for these individuals under this act. The definition of such individuals include (1) under age 21, (2) has an IQ between 30 and 50, (3) is ineligible for an educable mentally retarded class, (4) has a potential for self-care, social adjustment and economic usefulness, (5) is qualified for a Type B program, but is over the age of 14, so is ineligible, or there is no program offered so he could not attend if he were the right age. **(Op. Att'y. Gen., October 3, 1962)**

Eligibility for training programs by the county in addition to those cited above: an individual must be less than 21 years of age. Children under six are also eligible. **(Op. Att'y. Gen., October 3, 1962)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Assessment and Placement: Underachieving pupils with emotional and learning problems are frequently known to community agencies. A pre-diagnostic study screening may include:

1. review and evaluation of the pupil's school difficulties, a careful study of the cumulative record folder; a summary of teacher and principal reports and anecdotal records; identification of the development of individual behavior patterns and learning problems; information from previous schools attended, and a study of the psychological reports for clues as to the nature of the learning problem and emotional difficulties.
2. summarize the family background and attitudes toward the problem. This summary and recommendation for the disposition of the referral should be made a part of the pupil's referral record which is then assigned for the appropriate diagnostic study. **(R)**

Some hearing losses are permanent and others are corrective through medical treatment. In Michigan each one of the 83 counties has access to hearing testing programs. These are usually conducted by local health departments. Most county health departments in Michigan have information on the medical and educational status of school children with hearing losses. Some county health departments have hearing testing for children from 0-5 years. In these counties both early medical and educational intervention can be done at the most optimal period for this type of follow up.

Each county or local health department will be able to supply a list of persons 0-21 who are classified as either deaf or hard of hearing. The intermediate or local survey team is responsible for contacting the appropriate health agency for this information. **(R)**

These children must be evaluated by otolaryngologists or physicians with equivalent skills.

The pupil or pupils to be enrolled in this program must be examined each year and found to have a hearing loss, except when in the opinion of the medical specialist the condition of the pupil or pupils is deemed to be chronic and an annual statement to that effect may be used in lieu of the yearly examination. **(R)**

While audiometric tests are being given or reviewed, hearing aids are being fitted and medical follow up is being done, school administrators should gather additional information on each child as follows: age of onset, type and extent of hearing loss, physical and emotional status, possibility of multiple handicaps, type of special teacher available (if child has severe language impairment, he will require a teacher of the deaf and hard of hearing) and extent of family understanding and anticipated cooperation from them.

In summary, educational planning for the hearing impaired requires in addition to audiometric tests and medical diagnosis, the use of information from the various professions. Educational planning should be flexible and highly individual to insure each child's educational success. **(R)**

Speech handicapped children must be evaluated by experienced (five years) speech therapist with a master's degree. **(R)**

In each disability area, a committee consisting of appropriate school personnel is designated by the local superintendent. This committee makes recommendations for educational placement.

Children must be re-evaluated each year to remain in the special program, except for pupils whose condition is considered by the evaluating medical specialist to be chronic, in which case an annual statement to that effect may be used instead of the yearly examination. **(R)**

Unless the parents or legal guardian of the child refuses to have the child medically or clinically examined, no child may be expelled or suspended from school because of a physical handicap unless the board of education obtains a certified statement from a physician that the child is so physically handicapped he should not attend school. No child may be excused because of a mental or emotional handicap unless the board of education has obtained a statement from a psychiatrist, a child center, or clinic or other appropriate agency approved by the superintendent that the child is incapable of benefitting from public school attendance. **(R)**

A local board may expel or suspend any pupil guilty of persistent disobedience or gross misdemeanor if the interests of the school demand it. If there is cause to believe the pupil is handicapped and has not been evaluated, he will be immediately evaluated by the intermediate district of which the local district is a constituent. **(R)**

A person is eligible, as a statutory right, for special education programs and services if identified as having one or more of the impairments defined in part one, not more than 25 years of age prior to the fourth Friday after Labor day of the school year of enrollment and has not completed a normal course of study as defined in part one, and has not graduated from a high school. The designated age limit of 25 years shall not restrict an operating district, at its discretion, from providing programs for handicapped persons who are over 25 years of age. Persons identified as having multiple impairments as well as a single impairment shall be eligible to receive special education programs and services as recommended by the educational planning and placement committee.

The superintendent of the operating school district shall be responsible for making a change in the educational status of a handicapped person except where the provisions of section 340.298c or 340.63 of the Michigan Compiled Laws are applicable, in which case the superintendent of the intermediate district shall be responsible. Notwithstanding any additional proceedings set forth in the intermediate school district plan for special education programs and services, as defined in part 7, the superintendent, as a minimum, shall:

1. Appoint an educational planning and placement committee.
2. Request, in writing, parents on a case-by-case basis to participate as members of the committee in developing a recommendation concerning a change in the educational status of their handicapped offspring.
3. Direct the committee to recommend regular and special education programs and services, according to the educational, social and physical needs of the individual handicapped person, based on diagnostic and other evaluative information.
4. Direct a review at least annually of the programs and services provided each handicapped person and advise the superintendent of the district of residence and the parents of the handicapped person of the findings of that review.
5. Direct a review of the educational placement of each handicapped person who is receiving special education programs and services on the effective date of these rules, and to advise the superintendent of the district of residence and the parents of that handicapped person of the findings of that review within 90 days after the effective date of these rules. **(R)**

Before making an educational placement, denying a placement, or changing educational status of a handicapped person, the superintendent of the intermediate school district or constituent school district shall notify the parent, personally, in conference, or by certified mail

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MINNESOTA

Notification shall:

1. Describe the proposed action, including specification of the statute or rule under which action is proposed and a statement of the reasons therefor, including specification of any tests or reports upon which the action is based.
2. Advise the parent of all options of education opportunities available to the handicapped person.
3. Inform the parent of his right to contest the proposed action at a hearing, as described in rule 24, before the superintendent of the intermediate school district or constituent district.
4. Inform the parent that, after the intermediate school district or constituent district hearing and lacking a decision by the superintendent satisfactory to the parent, he may be heard by the superintendent of public instruction, or his designee, at a time and place specified by the superintendent, or his designee, and reasonably convenient to the parent.
5. Inform the parent of the availability of organizations, their addresses and telephone numbers, to assist the parent at the hearing.
6. Specify the following procedures for requesting a hearing:
    a. If notice is given at a conference with the parent, the parent may indicate satisfaction with the recommendation and, in writing, may waive the opportunity for a hearing.
    b. If notice is given by the superintendent by certified mail, the parent desiring a hearing shall complete the form provided at the conference, and mail it to the superintendent within seven days of the date of receipt of notice and change in educational assignment shall not be made during this period.
    c. If dissatisfied, the parent may request a hearing in writing, on a form provided at the conference, within seven days of the conference and change in educational assignment shall not be made during this period.
7. The appeal procedure may be terminated at any point upon receipt of a written statement from the parent, that the concerns have been resolved and that continuation of the appeal procedure serves no further purpose.

A hearing concerning a contested case by a parent of a proposed educational placement or change in the educational status of a handicapped person shall be conducted as follows:

1. A hearing shall be scheduled not less than 15 nor more than 30 days following receipt of the request from a parent. However, upon good cause shown, reasonable extensions of time shall be granted by the superintendent of public instruction, or his designee, upon request of the parent or school official.
2. The hearing shall be held in the local district at a place and time mutually convenient for the parent of the handicapped person or his representative and appropriate school officials.
3. The superintendent of the intermediate school district or the constituent district, or a designee, shall act as the hearing officer.
4. The hearing, upon request of the parent, shall be closed to the public.
5. A stenographic or other transcribed record of the hearing shall be made and shall be available to the parent or his representative. Any cost beyond the original transcription cost shall be borne by the requesting parties. The record may be discarded after three years.

6. The parent of a handicapped person may be represented at the hearing by any person of his choosing. The parent or his representative shall:
    a. Have access, prior to the hearing, to all records of the intermediate school district or constituent district concerning the handicapped person.
    b. Have the right to compel the attendance of, and to question, any witness testifying for the intermediate school district or constituent district and any official, employee or agent of the intermediate school district or constituent district who may have evidence upon which the proposed action may be based.
    c. Have the right to present evidence and expert medical, psychological or educational testimony and other pertinent information.
7. The decision of the hearing officer shall be based solely upon evidence presented at the hearing. Not later than 20 days after the hearing, the hearing officer shall render a decision in writing, which shall be accompanied by written findings of fact and conclusions of the law, and which shall be sent by certified mail to the parent, his representative and the school district superintendent.

A temporary change in educational status of the handicapped person may be made for the period prior to the decision of the hearing officer upon written request to the superintendent of public instruction by the superintendent of the intermediate school district or constituent district. The superintendent of public instruction shall take action in writing within five days of his receipt of the request setting forth the reasons therefor and upon notice to the parent. If a request is granted by the superintendent of public instruction, the hearing as set forth above must be held within the stated time limits.

Any time limitation in this rule shall be construed and applied so as to do substantial justice and may be varied upon approval of the superintendent of public instruction for good cause shown. **(R)**

If a parent is not satisfied with the decision rendered by the hearing, he may appeal to the superintendent of public instruction for a review of the case. The review may be held by the superintendent of public instruction or his designee who shall not be an officer, employee or agent of the intermediate school district or constituent district in which the handicapped person resides or in which the proposed program and services are to be provided. The deadlines for appeal to, and decision by, the hearing officer as set forth in rule 24, shall apply in appeals to the superintendent of public instruction. All records of the school district hearing, including the evidence, shall be submitted to the superintendent of public instruction by the district superintendent for review. The decision of the superintendent of public instruction or his designee may be made entirely from such records, or he may require a full hearing involving all or selected parties in the case, and review the decision de novo.

Evaluation of handicapped persons shall be made in the dominant language of that person's home. A bilingual aide may be employed to assist the evaluating personnel. **(R)**

BEST COPY AVAILABLE

ADMINISTRATIVE RESPONSIBILITY

The superintendent of public instruction is responsible for establishing qualifications of all professional personnel including teachers, diagnosticians, aides, and social workers employed in programs for trainable mentally handicapped children operated by intermediate school districts. **(Sec. 317d, Mich. Stats.) (L)**

Intermediate school districts operating programs for the trainable must comply with the requirements of the superintendent as to the establishment of services, eligibility, pupils, sizes of classes, housing, equipment, instructional programs and territory to be served before the cost of the programs may be reimbursed. **(Sec. 317e, Mich. Stats.) (L)**

Boards of intermediate districts providing special education services may employ teachers and other personnel, provide for their transportation, purchase and maintain special education supplies and equipment and secure proper office space and supplies. **(Sec. 317a, Mich. Stats.) (L)**

Special education personnel must meet state board requirements and qualifications. **(Sec. 772a,** [redacted]**)** Act #198, Public Acts of 1971 (L)

Curriculum, eligibility requirements for specific programs and services, review procedures regarding placement, class size, program size, quantity and quality of equipment, supplies and housing, adequacy of methods of instruction, and the length and content of the school day must be in accordance with state board special education rules. **(Sec. 773a,** [redacted] Act # 198 Public Acts of 1971) (L)

The Superintendent of Public Instruction is authorized to: (1) adopt rules and regulations for programs for trainable persons under 21; and (2) regulate the requirements of teachers, diagnostic personnel and housing facilities for Type A and B classes.

County superintendents must "classify and promote individuals enrolled in training programs."

County school districts: (1) have the power to exclude individuals from training programs because of discipline or health reasons; (2) classify and promote children as well as exclude them from training programs; (3) may contract with local school districts to establish training programs; and (4) may operate a training program even if no contracts with local districts are available. **(Op. Att'y. Gen., October 3, 1962)**

PLANNING

Beginning with the 1973-74 school year and continuing thereafter, the state board must:

1. develop, establish, and continually evaluate and modify in cooperation with intermediate school districts a state plan for special education providing for the delivery of programs and services to develop the maximum potential of handicapped persons and coordinating all programs and services;
2. require intermediate districts to submit plans according to subdivision (a) of section 298c and approve these plans;
3. establish rules for the requirements of the plans and procedures for submitting them;
4. have submitted a preliminary plan to the legislature by July 1, 1972; and
5. have submitted the final plan to the legislature by March 1, 1973. The final plan shall include recommendations for funding of special education programs and services. **(L)** (Act # 198, Public Acts of 1971)

In 1970 every school district operating schools was required by law to conduct a survey and present a plan for meeting the educational needs of its resident handicapped children and youth. **(L)**

Both local and intermediate school district plans (in 1970) were to have included the following: general philosophy and/or approach to meeting the educational needs of resident handicapped children and youth and summary of the educational needs of all resident handicapped children and youth based on the survey. **(L)**

For each disability area the following information should be provided: age ranges to be served, numbers of children in each age range in this disability area, and names and addresses of the school district and/or community agencies with whom cooperative programs for each age range are planned. **(L)**

On or before July 1, 1973, each intermediate school district shall submit to the department a plan for the delivery of special education programs and services for the period July 1, 1973 through June 30, 1975, pursuant to section 298c of the school code of 1955, as amended, being section 340.298c of the Michigan Compiled Laws. On or before July 1 of each year beginning in 1974, each intermediate school district shall submit a new or modified plan to become effective on July 1 of the succeeding year. Any intervening modification of an intermediate school district plan shall be submitted to the department, with a copy directed to each constituent local school district and the primary representative or chairperson of the parent advisory committee. **(R)**

An intermediate school district plan for the delivery of special education programs and services, or any modification thereof, shall be in accordance with the school code of 1955, as amended, and these rules must include at least the following content areas. Intermediate school district plans, or any modification thereof, shall be in accordance with the following format and include at least the following content areas:

1. Describe means by which persons from 0 to 25 years of age, known to be or suspected of being handicapped will be identified and referred for diagnostic services. The handicapped shall be identified in accordance with rules governing programs and services for handicapped persons as promulgated by the state board of education.
2. Describe the type and amount of diagnostic services that are directly operated within the intermediate school district and those purchased or contracted for from outside the intermediate school district or planning area.
3. Describe the procedures for the following:
    - (a) Determination of educational needs of handicapped persons.
    - (b) Development of an educational plan for each handicapped person.
    - (c) Assignment of basic educational programs and supportive services to carry out each educational plan.
    - (d) Determination of a timetable for implementation and reevaluation of each educational plan.
4. Describe the optimum special education basic programs and services including vocational education programs

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IDENTIFICATION ASSESSMENT, AND PLACEMENT

5. Describe the means by which the local school district and the intermediate school district will determine the effectiveness of special educational programs and services, and the educational plan for each handicapped person. The follow-up system shall include a procedure for determining the school-community adjustments of handicapped persons for not less than one year following termination of their special education programs and services.
6. Describe the number and type of professional and paraprofessional personnel needed to provide the special education program and services;
7. Describe the number and type of facilities and the transportation necessary to provide the special education programs and services.
8. Describe procedures for developing instructional content of and accountability for special education programs and services. This description shall include the time table and the personnel used to develop the instructional content.
9. Describe the organizational structure and administrative responsibility for delivery of special education programs and services.
10. Describe the procedures to be used to assure the integration of each handicapped person into his school community.
11. Describe the method, timetable, and criteria by which special education programs and services will be evaluated.
12. Estimate the amount of financial support of special education programs and services by the intermediate school district for the fiscal year.
    a. Describe the estimated cost of implementation of each of the special education programs and services;
    b. Detail the projected direct cost for each basic educational program and supportive service. Direct cost shall be the total of, all salaries and fringe benefits directly attributable to the program or service, including teachers, aides, clerical and administrators, contracted services, transportation for personnel, pupil transportation, equipment, materials and supplies, rental of land or buildings, and other fixed charges directly attributable to the program-service
    c. Detail the indirect cost for each basic educational program and supportive service.
    d. Compute cost for each basic educational program and each supportive service as follows: total basic program cost shall equal direct cost plus indirect cost, total supportive service cost shall equal direct cost plus indirect cost, basic program per pupil cost shall equal total basic program cost divided by the number of persons to be served, and supportive services per pupil cost shall equal total supportive services cost divided by the number of persons to be served.

Intermediate school district plans, or any modification thereof, shall have been developed in cooperation with constituent school districts. Further, all plans or any modification thereof shall have been developed in cooperation with a parent advisory committee consisting of at least one parent of a handicapped person from each constituent school district. The parent members shall be nominated by their respective boards of education. The intermediate board of education shall make every attempt to assure that all types of handicaps and disabilities are represented on the parent advisory committee and shall recommend operational procedures for committee review and adoption. All plans will be reviewed in whole or in part at least quarterly each fiscal year with the representatives of each local school district and the parent advisory committee. (R)

Two or more intermediate school districts lying within an educational planning area as designated by the state board of education may submit a plan for the delivery of special education programs and services in conjunction with adjacent intermediate school districts upon approval by the state board of education. (R)

Each intermediate school district plan or joint plan shall be signed by all of the following. the intermediate school district superintendent signifying approval by the intermediate school district board, the superintendent of each constituent school district signifying that his school district has been involved in the development of the plan, and the chairperson of the parent advisory committee signifying the committee has been involved in the development of the plan.

At the time the intermediate school district plan or modification thereof, is submitted to the department, any constituent school district or the parent advisory committee may file objections to the plan in whole or in part. Copies of the objections to the plan shall be directed to the intermediate board of education, all constituent school districts and the parent advisory committee. Objections filed shall note the specific portions of the plan objected to, contain a specific statement of the reasons for objection and may propose alternative provisions.

Intermediate school district plans, or modification thereof, shall be approved by the state board of education if in compliance with: the state plan for the delivery of special education programs and services, the provisions of the school code of 1955, as amended, and rules promulgated to implement statutory provisions for special education programs and services.

Intermediate boards of education shall be advised by the department of state board of education approval of a plan, or modification thereof. Notification of disapproval of a plan, or modification thereof, shall state the reasons therefore. (R)

Training programs are only authorized to be in operation during the regular school year, not the full calendar year. (Op. Att'y. Gen., October 3, 1962)

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FINANCE

Funds for operating and housing special education programs and services operated by intermediate and constituent school districts shall be from federal appropriations, general, and categorical appropriations in the state school aid act, local general and specific property taxes, gifts, grants, bequests, and tuition payments from a school district sending handicapped persons to another school district.

Funds available to intermediate and constituent school districts, as provided above, may be used for the employment of teachers and other personnel; transportation of handicapped persons; the purchase and maintenance of equipment and supplies; the lease, purchase, construction or renovation or acquisition of vehicles, sites, buildings or portions thereof and equipment as deemed necessary for staff, programs and services operated in accordance with the intermediate district plans as approved by the state board of education and other provisions of law.

Whenever facilities are purchased, constructed or renovated, with funds acquired through Act No. 269 of the Public Acts of 1955, as amended, for constituent districts, funds shall be used for contractual purposes which provide that the constituent district shall make that facility available for special education programs and services for a period of 25 years. Disbursement of funds from the provisions of Act No. 269 of the Public Acts of 1955, as amended, shall be made by the intermediate district board of education in accordance with the intermediate district plan.

Membership allowances under the state school aid act shall be provided to intermediate school districts for special education programs operated by them exclusive of trainable and day training programs. The amount of the allowances shall be determined by dividing the total state aid membership allowances for the constituent school districts by the total membership of the constituent districts.

$$\frac{\text{Total amount of funds received from the state for membership allowances by all constituent districts}}{\text{Total number of students enrolled by all constituent districts on the fourth Friday following Labor Day}} = \text{Per student membership allowance for intermediate school district}$$

Room, board and transportation costs for special education programs and services contracted for by the school district of residence shall be paid by that school district in accordance with the intermediate district plan. Parents of persons served shall not be responsible for the cost of room, board and transportation.

The intermediate school district and its constituent districts shall plan jointly the funding of special education programs and the funding formula shall become part of the intermediate district plan. In no case shall the contribution by a district of residency be less than the average per pupil amount of tax revenue raised locally for students enrolled in a regular education program.

Tuition may be charged to the constituent districts of residence by an intermediate school district or constituent districts which contract to provide special education programs to handicapped persons. The tuition charge may be not more than an amount equal to the per capita cost of the special education programs less state aid allowances and less the constituent district of residence contribution.

An intermediate school district establishing such a program by contract with local school districts or operating a program under these rules shall submit to the superintendent of public instruction, at the close of the fiscal year, an itemized report of the actual cost of operating the program, including the cost of transportation, on forms provided for that purpose. Reported actual costs for purposes of reimbursement shall include only those which are reasonable and appropriate as determined by the superintendent of public instruction.

The state board of education shall approve state reimbursement for special education programs and services based upon the relationship between the number of professional personnel to the total number of pupils enrolled in all public and non-public schools in an intermediate school district on the fourth Friday after Labor day of the previous school year. The intermediate school district and its constituent districts shall be entitled to receive reimbursement for special education programs and services on the basis of five professional personnel per 1000 pupils enrolled in all public and non-public schools in the intermediate school district, excluding severely mentally impaired and trainable mentally impaired programs and the following recommendations be considered in planning that professional staffing pattern. Additional personnel may be approved on the basis of intermediate school districts' plans for providing programs and services to persons of pre-school age and ages 19-25, supervisors, directors and other personnel.

	Program Personnel	Total Number of Pupils Enrolled in Intermediate School District
Teachers of educable mentally impaired	1 for each	1,000 or major portion thereof
Teachers of trainable mentally impaired	"	2,500 "
Teachers of severely mentally impaired	"	20,000 "
Teachers of emotionally impaired	"	2,000 "
Teachers of learning disability impaired	"	3,000 "
Teachers of hearing impaired	"	5,000 "

For the 1974-1975 school year the state shall pay to each school district for all school transportation and related services for which the district is authorized by law to receive state aid: (1) The lesser product of

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Teachers of visually impaired	1 for each	10,000	or major portion thereof
Teachers of physically or otherwise health impaired	"	3,000	"
Teachers of homebound and hospitalized	"	10,000	"
Teacher consultants of mentally impaired	"	4,500	"
Teacher consultants of emotionally impaired	"	1,500	"
Teacher consultants of learning disability impaired	"	1,500	"
Teacher consultants of hearing impaired	"	3,000	"
Teacher consultants of visually impaired	"	16,000	"
Teacher consultants of physically or otherwise health impaired	"	10,000	"
Teachers of speech and language impaired	"	2,000	"
School social worker	"	2,500	"
School psychologist	"	4,000	"

Directors and supervisors of special education and supportive personnel shall be reimbursed in accordance with the intermediate school district plans, as approved by the state board of education. Supportive personnel includes, but is not limited to, curriculum resource consultants, occupational therapists, physical therapists, audiologists, and orientation and mobility specialists.

Boards coming under the provisions of sections 307a to 324a are required to expend funds received under section 314a according to state board rules. **(Sec. 317a,** [redacted] Act # 198, Public Acts of 1971)

Boards operating or contracting for programs or services are entitled to carry children in membership in the same manner as local districts and shall receive their proportionate share of available state funds. State board rules shall govern the calculation of "membership." **(Sec. 318a,** [redacted] Act # 198 Public Acts of 1971)

School districts providing transportation to mentally handicapped, physically handicapped, or emotionally disturbed children may provide up to 75% of the costs but not exceeding $200 per pupil. Districts may receive the same reimbursement for children who are day students at the schools for the deaf and the blind. Districts providing transportation to children receiving services at the department of mental health facilities are also entitled to this reimbursement. **(Act No. 100, Public Acts of 1970) (L)**

Districts providing programs for hearing impaired, physically handicapped, and visually handicapped children are allowed an additional amount not exceeding $8,100 for any individual salary. The salaries of directors and supervisors of special education programs are also reimbursed under this section. **(Act. No. 100, Public Acts of 1970) (L)**

Intermediate school districts may receive up to 75% of the cost of operating programs for the trainable mentally retarded. An intermediate district may use funds not in its general or special education fund, and not otherwise restricted or contributions from local school districts or individuals for the support of these programs. **(Act No. 100, Public Acts of 1970) (L)**

Reimbursement for districts conducting special education programs and for the salaries of school social workers, school diagnosticians, physical therapists, and occupational therapists, shall not exceed 75 percent of the actual cost of salaries, exclusive of administrative and clerical salaries, but not exceeding $8,100 for any individual salary. The salaries of directors and supervisors of special education programs are also reimbursed under this section. **(Act. No. 100, Public Acts of 1970). (L)**

County school districts (intermediate districts) are not eligible for the $4,750.00 "membership" allowance from the State for each teacher they employ for the handicapped under Section 12, Act No. 188, P.A. 1956, unless legislative authority is given. This money in only available to local school districts. The only circumstance in which a county district could receive the allowance would be if no programs were provided in any of the local districts of the county and the local districts were unwilling to provide them. **(Op. Att'y. Gen., March 5, 1957)**

"Local school districts are authorized to operate several types of special education programs for handicapped pupils, and state aid payments cannot exceed 75 per cent of actual cost of each program under Section 12 of Act 312, P.A. 1957, as amended.

"State aid payments for special educational programs may be based upon estimated cost of program for current school year subject to adjustment for overpayment or underpayment when actual cost of program is ascertained, under Section 30 of Act 312, P.A. 1957, as amended.

"In determining actual cost of operation, the superintendent of public instruction is authroized to consider administrative and capital cost that are necessary and incident to operation of special educational programs." **(Op. Att'y. Gen., October 11, 1958)**

"(1) County school districts having adopted a special education program under 309 to 327 of the school code may receive under 8 of the School Aid Act $5,125 for each professional employee, including classroom teachers, approved by the superintendent of public instruction as necessary to an approved special education program; (2) school districts maintaining programs for the emotionally disturbed may receive the usual $205 allotment for each pupil in membership in the program; (3) no extraordinary allotments are available for transportation of pupils to special education programs for the emotionally disturbed, although the ordinary transportation allotments may be available in some instances for this purpose; (4) School aid allotments for tuition expended in sending pupils to programs for the emotionally disturbed outside the sending district are available under

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Intermediate school districts possess all the rights of the county districts they succeeded. When constituent districts reorganize into a single district, the reorganized district is a constituent to the intermediate district designated by the board of the reorganized districts. If a decision is not made within 30 days after the effective date of the reorganization, the state board shall make the determination. By resolution of its board any constituent district may become constituent to another intermediate district to which it is contiguous if the board of each affected intermediate district approves. If the intermediate district to which annexation is proposed has adopted this chapter's special education provisions or has bonded indebtedness outstanding for special education building facilities for the trainable mentally retarded, registered electors of the district to be annexed must vote to accept these provisions and to assume a prorata share of any bonded indebtedness outstanding for facilities for the trainable mentally retarded. An annexation becomes effective only if the applicable issues relating to special education programs, vocational technical programs, and bonded indebtedness are approved at the same district election. **(L)**

If a school district constituent to an intermediate district with a bonded indebtedness for special education facilities or vocational technical education programs is transferred to another intermediate unit, the territory of the annexed district remains as part of the intermediate district from which it transferred for levying debt retirement taxes for the bonded indebtedness until the bonds are redeemed or sufficient funds are available in debt retirement funds for that purpose. For all other purposes, the annexed district is a constituent of the intermediate district to which it was annexed. **(L)**

The board of an intermediate district which has adopted the provisions of 307a to 324a and has constituent district(s) which have not yet elected to come under section 329 shall submit by the 1973-74 school year the question of adopting sections 307a and 324a. The election is called and held in the same manner provided in sections 308b and 308c for the original election adopting these sections. The ballot shall be in the form described in section 310a. **(L)** (Sec. 329c. Act # 198, Acts of 1971)

Local district contracts providing for services or programs must specifically provide for: necessary special education building, equipment, and personnel to operate the program or service; transportation or room and board, or both; contribution of the sending district in accordance with state board rules. This section should be interpreted to allow for program operation by state departments without local contribution, and any other matters deemed appropriate by contracting parties. **(L)**

All programs and services operated or contracted for by local districts must be in accordance with the intermediate district's plan. Additional services not included or required by the plan may be provided by local districts. Intermediate school districts may operate programs for the trainable mentally handicapped. Boards operating or contracting for programs or services are entitled to carry children in membership in the same manner as local districts and shall receive their proportionate share of available state funds. State board rules shall govern the calculation of "membership." **(L)** (Sec. 771a. Mich Stats.)

Intermediate boards may and for the 1973-74 school year and thereafter must:

1. develop, establish, and continually evaluate and modify in cooperation with its constituent school district, a special education plan providing for delivery of special education programs and services to develop to the maximum potential all handicapped persons included in number six.
2. employ or otherwise engage special education personnel in accordance with the district's plan and appoint a special education director meeting state board qualifications and requirements;
3. accept and use available private and governmental funds and contributions to provide appropriate special education programs and services;
4. lease, purchase, or otherwise acquire, vehicles, sites, buildings, or portions of them, and equip them as necessary for its staff, programs and services.
5. maintain a record of all handicapped persons up to age 25 who have not completed a normal course of study and graduated from high school and who are residents of one of the constituent districts and the special education programs and services in which the person is participating, if any, as of the fourth Friday following Labor Day and the Friday before Memorial Day. The only basis on which the district of residence is determined will be decided by state board regulations;
6. have the right to place in an appropriate education program any handicapped person for whom a constituent district is required to provide special education programs or services under section 771a;
7. investigate special education programs and services conducted by or contracted for by the board or its constituent districts and report in writing to the local district and state board any matters it deems in noncompliance with any contract, statute, or rule governing the special education programs, or services or the intermediate district's plan.
8. operate, or contract for the programs and services as if a local district. The contract providing for the items must have state board approval. Transportation and room and board, or both, must be provided by the intermediate boards for persons participating in programs or services conducted as if a local district.
9. receive a report from any parent or guardian or with the parent's or guardian's consent receive the report of a licensed physician, registered nurse, social worker, school or other appropriate professional personnel whose training and relationship to handicapped persons provides competence to judge handicapped persons and in good faith believes that a person under 25 examined by him is or may be handicapped. The board will then immediately evaluate the persons so reported in accordance with state board rules. No one making or filing such a report or seeking an evaluation will be liable to suit unless lack of good faith is proven;
10. evaluate pupils. **(L)** (Sec. 298c, Act 198, Public Acts of 1971)

State reimbursement can be made to a school system for transporting to summer school a crippled child

SERVICES

" 'Special education programs and services' as used in this act means educational and training programs and services designed for handicapped persons operated by local school districts, intermediate school districts, the Michigan school for the blind, the Michigan school for the deaf, department of mental health, department of social services, or any combination thereof, and ancillary professional services for handicapped persons rendered by agencies approved by the state board of education." **(Sec. 10, Act 198, Public Acts of 1971) (L)**

The programs provided shall include vocational training but do not have to include college or university level academic programs. **(Sec. 10, Act 198, Public Acts of 1971) (L)**

" 'Special education personnel' as used in this act means persons engaged in having professional responsibility for the training, care and education of handicapped persons in special education programs and services which include, but are not limited to, teacher aides, social workers, diagnostic personnel, physical therapists, occupational therapists, audiologist, speech pathologists, instructional media-curriculum specialists, mobility specialists, consultants, supervisors and directors." **(Sec. 11, Act 198, Public Acts of 1971) (L)**

Local boards may presently provide, and for the 1973-74 school year and thereafter shall provide transportation by a contractual or other arrangement for handicapped persons who without such transportation would be unable to participate in an appropriate special program operated or contracted for by local districts under section 771a. These provisions do not apply to persons at the Michigan school for the blind, school for the deaf or department of mental health or social services facilities. **(Sec. 601, Mich. Stats.) (L)**

In a similar manner to transportation, local boards shall provide room and board to handicapped persons. **(Sec. 601a, Mich. Stats.) (L)**

Local districts shall not solicit reimbursement from handicapped persons or persons otherwise liable for their care for the cost of room and board unless the person can reasonably afford to pay a portion of the costs. **(Sec. 601b, Mich. Stats.) (L)**

Class Size:

	NUMBER OF PUPILS	
	Minimum	**Maximum**
EDUCABLE MENTALLY HANDICAPPED		
Special Class	--	15
TRAINABLE MENTALLY HANDICAPPED		
Special Class	--	15
SPEECH HANDICAPPED		
Speech Therapist (caseload)	75	100
PHYSICALLY HANDICAPPED		
Special Class	--	15
Homebound, Hospitalized (caseload)	--	12
EMOTIONALLY DISTURBED		
Special Class	--	10
LEARNING DISABLED		
Special Class (emotionally disturbed and brain damaged)	--	10
MULTIPLY HANDICAPPED		
Emotionally disturbed and brain damaged	--	10*
VISUALLY HANDICAPPED		
Special Class	--	10
BLIND		
Special Class -- blind or combination of blind and partially seeing	--	8
AURALLY HANDICAPPED		
Special Class (hard of hearing)	--	10
Special Class (hard of hearing and deaf)	--	7
DEAF		
Special Class	--	7

*Age range not to exceed 4 years.

Eligible handicapped children may go to other counties to obtain special services. **(Op. Att'y. Gen., October 3, 1962)**

County school districts with training programs do not have the authority to operate transportation services. They may contract for transportation services. **(Op. Att'y. Gen., October 3, 1962)** (See also **Administrative Responsibility**).

ment of the pupils identified through the process in Rule 1 if, in the judgment of the committee when all facts have been reviewed, the major educational problem of the pupils is having a hearing loss.

Teachers employed for the program shall possess a valid teachers certificate and, in addition, they shall be ap- proved for teaching the deaf and/or hard of hearing in accordance with requirements prescribed by the superinten- dent of public instruction.

The educational program for the deaf and hard of hearing shall be operated in accordance with the following con- ditions and procedures: the chronological age range of the pupils enrolled in any special class shall be no more than six years, these limitations may be modified in cases of hardship or in the best interest of children, but only upon the approval of the superintendent of public instruction, and each special class shall have an enrollment of no more than seven pupils who are profoundly deaf, or an enrollment of no more than ten pupils who are hard of hearing but not profoundly deaf, or an enrollment of no more than seven pupils who together constitute a combination of those who are profoundly deaf and those who are hard of hearing; these limitations may be modified in cases of hardship or in the best interest of children.

An intermediate school district, constituent districts, or other agencies shall adhere to the following general re- quirements for all programs and services for handicapped persons.

1. Special education classrooms shall have at least the average number of square feet per student as compared to regular classrooms in the school district. Special education classrooms shall be located in schools housing regu- lar education pupils of comparable age and grade level, except for facilities designated and in use for this pur- pose prior to the effective date of these rules and except when special facilities are provided for severely men- tally impaired or trainable mentally impaired, or for specialized vocational training for handicapped persons or for emotionally impaired persons served in mental health facilities. Teacher consultants and special educa- tion supportive personnel shall have space designated on a scheduled basis in each building to afford individual and small group work. Each handicapped person shall be assigned to educational programs and services which are housed in buildings which allow that handicapped person to participate fully in such regular and special education services.
2. A curriculum plan based upon individual student performance objectives shall be written by the teacher in conjunction with other school personnel for each handicapped person in accordance with his needs in the cognitive, affective and psychomotor domains with special attention to needs for personal adjustment training, pre-vocational and vocational training. The student performance objectives shall be available to the parent and may be reviewed by the superintendent of public instruction or his designee.
3. The methods of instruction shall be consistent with the performance objectives written for each handicapped person.
4. Intermediate school districts or constituent districts may operate or contract for operation of pre-vocational evaluation or work activity center services for special education.
5. Intermediate school districts or constituent districts, or a combination of such school districts, may provide for work study services and, with approval of the superintendent of public instruction, assign special educa- tion personnel to the supervision of work study services. These services shall be available to handicapped per- sons regardless of their disability if either of the following conditions are met: they have received prerequisite personal adjustment training, pre-vocational education and vocational training, or within one additional school year, they will cease to be eligible as provided in rule 21 for special education programs and services.
6. A written vocational education plan, signed by the parent, school and employer, shall set forth the educa- tional goals, job activities, related subjects, standards of attainment, time and duration of the program and wages to be paid to the handicapped person. The superintendent of the district shall designate a staff member to visit the job site at least once every 20 school days to check attendance, evaluate the handicapped person's progress and evaluate the placement in terms of the health, safety and welfare of the individual handicapped person.
7. The instructional program for a school day shall focus on the individual needs of the handicapped person, as determined through the plan for each student.
8. Special education programs and services shall be provided for at least the minimum number of hours and days of teacher-pupil contact in conformance with the child accounting rules, being R 340.1 to R 340.17 of the Michigan Administrative Code, but for no special education program or service shall the number of hours and days be less than those required for regular education programs.
9. The age range of persons under 16 years of age in a special education class for educable mentally impaired, emotionally impaired, and learning disabled shall not exceed four years at any one time.
10. Handicapped persons qualifying for special education programs and services shall be provided supplies and equipment at least equal to those supplies and equipment necessary to meet their defined performance ob- jectives.

Deviations from these rules may be requested in writing by an agency operating special education programs and services to the state board of education which shall grant such requests upon such terms and conditions as it shall specify, when in its judgment, the best interests of those handicapped persons affected by such deviation are served and good cause shown. Under no circumstances shall any deviation from these rules be granted so as to exclude or deny any handicapped person a special education program or service which he requires.

Each type of handicapped person, as defined in part 1, shall be provided programs and services according to the intermediate district plans and the specific requirement in rules 38 to 47, in addition to the programs provided generally to all handicapped children as described in rule 33.

Specific requirements for programs and services for hearing impaired persons are as follows.

1. A special class with one teacher shall have an enrollment as follows:
   a. Not more than the equivalent of seven full-time pupils diagnosed as having a severe hearing impairment, or

A school district may establish and operate a teacher counselor program for the hard of hearing, partially seeing, crippled, and/or otherwise physically handicapped in accordance with the provisions of Sections 340.931 through 340.937 of the Compiled Laws of 1948 if such provisions as contained in those sections and the following rules and regulations are met. Furthermore, a school district may be approved by the superintendent of public instruction for receiving monies through the provisions of Act 312, P.A. 1957, as amended or similar subsequent acts for the operation of these programs if the provisions in such act or acts and the following rules and regulations are met. **(R)**

Pupils with physical handicaps to be enrolled in this program shall have an annual examination by a licensed physician except when, in the opinion of said physician, the physical condition is deemed to be chronic, and an annual statement to that effect may be used in lieu of the annual examination.

The superintendent of the school district shall designate a special education planning committee and determine the size of this committee which shall make recommendations for the special education placement of pupils identified through the process in rule 1 if, in the judgment of the committee when all facts have been reviewed, the pupil is in need of teacher counselor service.

Teachers employed for the program shall possess a valid teacher's certificate and, in addition, they shall be approved as a teacher counselor for the hard of hearing, partially seeing, crippled, and/or otherwise physically handicapped in accordance with requirements prescribed by the superintendent of public instruction. One full-time teacher counselor may be employed for each 2,500 pupils who are enrolled as public school members in the district. The teacher counselor program for the hard of hearing, partially seeing, crippled, and/or otherwise physically handicapped shall be operated in accordance with the following conditions and procedures: the pupils enrolled shall not be so severely physically handicapped as to require special class placement but they shall need part-time teaching and/or counseling in order for them to succeed in their regular classes.

A school district may establish and operate an educational program, in accordance with the provisions of Sections 340.941 through 340.948 of the Compiled Laws of 1948, if those sections and the following rules and regulations are met. Furthermore, a school district may be approved by the superintendent of public instruction for receiving monies through the provisions of Act 312, P.A. 1957, as amended, or similar subsequent acts for the operation of such a program, if the provisions in such act or acts and the following rules and regulations are met. **(R)**

Pupils to be enrolled in the program shall be examined annually either by (a) a director of a speech clinic or a speech correctionist working under his supervision if said clinic is part of a Michigan institution approved by the state board of education for teacher education, or (b) a speech correctionist who holds a Master's degree, who has had a minimum of five years of successful experience in teaching speech correction, and who is fully approved by the superintendent of public instruction as a speech correctionist, and they, the pupils, shall be found to have speech so different or uneven that communication is seriously faulty and inefficient and it apparently needs some kind of correction.

Each full-time speech correctionist shall teach no more than 75 pupils who are certified for the program in accordance with Rule 1; these limitations may be modified in cases of hardship or in the best intersts of children, but only upon the approval of the superintendent of public instruction.

Each pupil enrolled for the program shall receive an average of at least one hour of speech correction instruction per week or its equivalent, taught either in a small group or on an individual basis.

Speech correctionists employed for the program shall hold a valid teaching certificate and, in addition, they shall be approved for teaching speech correction in accordance with requirements prescribed by the superintendent of public instruction.

An experimental program for speech correction shall be submitted to the superintendent of public instruction for his approval prior to initiation and for his approval each year during the period of its operation.

A school district may establish and operate an educational program for the deaf and the hard of hearing in accordance with the provisions of Sections 340.971 through 340.976 of the Compiled Laws of 1948 if such provisions as contained in those sections and the following rules and regulations are met. Furthermore, a school district may be approved by the superintendent of public instruction for receiving monies through the provisions of Act 312, P.A. 1957, as amended, or similar subsequent acts for the operation of these programs if the provisions in such act or acts and the following rules and regulations are met. **(R)**

The pupil or pupils to be enrolled in this program shall be examined each year by a member of the American Board of Otolaryngology, or an equivalent of this board and found to have a hearing loss, except when in the opinion of said medical specialist the condition of the pupil or pupils is deemed to be chronic and an annual statement to that effect may be used in lieu of the yearly examination.

The superintendent of the school district shall designate a special education planning committee comprised of appropriate professional personnel and this committee shall make recommendations for the special education place-

Class Size:	Number of Pupils Minimum	 Maximum
Deaf		
Special Class		7
Speech Handicapped		
Speech Therapist (Caseload)		75
Learning Disabled		
Special Class (Emotionally disturbed and brain damaged)		10
Aurally Handicapped		
Special Class (Hard of Hearing)		10
Special Class (Hard of Hearing & Deaf)		7 **(R)**

A school district may establish and operate a teacher counselor program for the hard of hearing, partially seeing, crippled, and/or otherwise physically handicapped in accordance with the provisions of Sections 340.931 through 340.937 of the Compiled Laws of 1948 if such provisions as contained in those sections and the following rules and regulations are met. Furthermore, a school district may be approved by the superintendent of public instruction for receiving monies through the provisions of Act 312, P.A. 1957, as amended or similar subsequent acts for the operation of these programs if the provisions in such act or acts and the following rules and regulations are met. **(R)**

Pupils with physical handicaps to be enrolled in this program shall have an annual examination by a licensed physician except when, in the opinion of said physician, the physical condition is deemed to be chronic, and an annual statement to that effect may be used in lieu of the annual examination.

The superintendent of the school district shall designate a special education planning committee and determine the size of this committee which shall make recommendations for the special education placement of pupils identified through the process in rule 1 if, in the judgment of the committee when all facts have been reviewed, the pupil is in need of teacher counselor service.

Teachers employed for the program shall possess a valid teachers certificate and, in addition, they shall be approved as a teacher counselor for the hard of hearing, partially seeing, crippled, and/or otherwise physically handicapped in accordance with requirements prescribed by the superintendent of public instruction. One full-time teacher counselor may be employed for each 2,500 pupils who are enrolled as public school members in the district. The teacher counselor program for the hard of hearing, partially seeing, crippled, and/or otherwise physically handicapped shall be operated in accordance with the following conditions and procedures: the pupils enrolled shall not be so severely physically handicapped as to require special class placement but they shall need part-time teaching and/or counseling in order for them to succeed in their regular classes.

A school district may establish and operate an educational program, in accordance with the provisions of Sections 340.941 through 340.948 of the Compiled Laws of 1948, if those sections and the following rules and regulations are met. Furthermore, a school district may be approved by the superintendent of public instruction for receiving monies through the provisions of Act 312, P.A. 1957, as amended, or similar subsequent acts for the operation of such a program, if the provisions in such act or acts and the following rules and regulations are met. **(R)**

Pupils to be enrolled in the program shall be examined annually either by (a) a director of a speech clinic or a speech correctionist working under his supervision if said clinic is part of a Michigan institution approved by the state board of education for teacher education, or (b) a speech correctionist who holds a Master's degree, who has had a minimum of five years of successful experience in teaching speech correction, and who is fully approved by the superintendent of public instruction as a speech correctionist, and they, the pupils, shall be found to have speech so different or uneven that communication is seriously faulty and inefficient and it apparently needs some kind of correction.

Each full-time speech correctionist shall teach no more than 75 pupils who are certified for the program in accordance with Rule 1; these limitations may be modified in cases of hardship or in the best intersts of children, but only upon the approval of the superintendent of public instruction.

Each pupil enrolled for the program shall receive an average of at least one hour of speech correction instruction per week or its equivalent, taught either in a small group or on an individual basis.

Speech correctionists employed for the program shall hold a valid teaching certificate and, in addition, they shall be approved for teaching speech correction in accordance with requirements prescribed by the superintendent of public instruction.

An experimental program for speech correction shall be submitted to the superintendent of public instruction for his approval prior to initiation and for his approval each year during the period of its operation.

A school district may establish and operate an educational program for the deaf and the hard of hearing in accordance with the provisions of Sections 340.971 through 340.976 of the Compiled Laws of 1948 if such provisions as contained in those sections and the following rules and regulations are met. Furthermore, a school district may be approved by the superintendent of public instruction for receiving monies through the provisions of Act 312, P.A. 1957, as amended, or similar subsequent acts for the operation of these programs if the provisions in such act or acts and the following rules and regulations are met. **(R)**

The pupil or pupils to be enrolled in this program shall be examined each year by a member of the American Board of Otolaryngology, or an equivalent of this board and found to have a hearing loss, except when in the opinion of said medical specialist the condition of the pupil or pupils is deemed to be chronic and an annual statement to that effect may be used in lieu of the yearly examination.

The superintendent of the school district shall designate a special education planning committee comprised of appropriate professional personnel and this committee shall make recommendations for the special education place

b. Not more than the equivalent of ten full-time pupils diagnosed as having a moderate hearing impairment, or

c. Not more than the equivalent of seven full-time pupils when those with severe and moderate impairment are grouped together, or

d. Not more than the equivalent of three full-time pupils when they are hearing impaired and otherwise handicapped, or

e. Not more than the equivalent of 12 full-time pupils in a supervised class at the secondary level.

2. Group hearing aids deemed necessary by the placement and planning committee for instruction shall be provided.
3. Communication skills and language shall be emphasized as an integral part of the curriculum.
4. The Michigan school for the deaf shall be considered a part of the total continuum of services for hearing impaired persons, through the following procedures:

   a. All applications for placement at the Michigan school for the deaf shall be submitted by the intermediate school district superintendent or his designee to the superintendent of the Michigan school for the deaf.

   b. Prior to application the person shall have been identified as hearing impaired in accordance with part 1 by the referring school district.

   c. The agency initiating a change of placement into or out of the Michigan school for the deaf shall be responsible for establishing the educational planning and placement committee which shall contain representatives of the intermediate school district of residence and the Michigan school for the deaf.

Specific requirements for the programs for the speech and language impaired shall be as follows:

1. Size and composition of the groups shall be determined by the teacher of the speech and language impaired. Delivery of services shall be determined by the teacher of speech and language impaired in cooperation with the district director of special education or his designee and the building principal of the school in which the pupils are enrolled.
2. The teacher of speech and language impaired shall work with an active case load of no more than 75 pupils at any one time.

A specific requirement for the learning disabled shall be that not more than the equivalent of 19 full-time pupils shall be assigned per teacher in special classes for the learning disabled.

PRIVATE

If districts provide auxiliary services to handicapped children in public schools, they shall provide the same services to children in non-public schools. These services include "health and nursing services and examinations. . . ; speech correction services; visiting teacher services for delinquent and disturbed children; school diagnostician services for all mentally handicapped children, teacher counselor services for physically handicapped children; teacher consultant services for mentally handicapped or emotionally disturbed children; remedial reading, and such other services as may be determined by the Legislature." **(Sec. 662, Mich. Stats.) (L)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary Certification (Certificate No. 1)

valid grades K-8; bachelor's degree including major (30) and one minor (2), professional education (20) including student teaching (8)

Eligibility for Secondary Certification (Certificate No. 2)

valid grades 9 - 12 (same as **Certificate No. 1**)

Eligibility for Special Education Endorsement

hold or qualify for **Certificate No. 1** or **No. 2**: bachelor's degree, specialization (30), student teaching (8), endorsement based on competencies.

FACILITIES

Intermediate boards providing services to the handicapped children within constituent districts may not appropriate funds to maintain or construct buildings to house special education classes unless the buildings are owned by the constituent school districts and are under the administration of the board of education of the special education center. ("'Special education center' means a constituent school district which, by action of its board contracts with the board of intermediate district to provide special education to non-resident pupils.")

Intermediate school districts operating programs for the trainable mentally retarded may purchase, construct, lease, or otherwise acquire necessary housing and land. **(Sec. 317f, Mich. Stats.) (L)**

By a majority vote of registered school electors within the intermediate district, voting on the question at an annual election, these districts may borrow money and issue bonds to defray all or any part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or re-equipping buildings to house the program for the trainable and other related facilities, and acquiring, repairing, developing or improving sites. No intermediate district shall issue bonds for the purposes mentioned in this section for the trainable mentally handicapped in special education for an amount greater than 1.5% of the total assessed valuation of the intermediate district, nor may the bonded indebtedness of any intermediate district extend beyond a period of 30 years for the money borrowed. **(Sec. 317g, Mich. Stats.) (L)**

See Services.

County school districts are not authorized to build or buy facilities to house their programs. The county districts are authorized, however, to rent space for the programs and claim this cost as part of the expenses **(Op. Att'y. Gen., October 3, 1962)**

STATE PROFILE

MINNESOTA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

MINNESOTA

RIGHT TO AN EDUCATION

Constitution: "The stability of a republican form of government depending mainly upon intelligence of the people, it shall be the duty of the legislature to establish a general and uniform system of public schools." **(Art. VII, Sec. 1, Const. of State of Minn.) (L)**

Compulsory Attendance Law: All children between the ages of seven and 17 are subject to the compulsory attendance laws and must attend a public or private school for at least nine months during the school year. A child may be excused from the requirement upon the application of his parent, guardian, or any other person having control of the child to any member of the board, truant officer, principal or city superintendent for the whole or any part of the school year by the board of the district in which he resides, if it is shown to the satisfaction of the board that the child's bodily or mental condition is such as to prevent his attendance at school or application to study for the required period. The clerk of the school board must keep a record of the excuses. Each excuse will state the reason for the excuse, and a copy will be forwarded to the commissioner of education. **(Sec. 120. 10 MSA) (L)**

No school board may exclude, expel or excuse, without sufficient cause, any person from school privileges if he is entitled to admission as a student to the district schools. If a person has been excluded, expelled, or excused by a school board, the action of the board will be reported to the commissioner of education within 30 days **(Sec. 127.071 MSA) (L)**

Responsibilities: Programs for the trainable mentally retarded shall be provided either within or without the district. If the provision of such instruction, training, and services would result in hardship or injury to the child, the school board may appeal the mandatory provisions of this act to the commissioner of education who will then determine the provisions to be made by the district for the education of the child. **(Sec. 120.17 MSA) (L)**

All school districts and unorganized territories shall provide special instructions and services for educable handicapped children of school age in the district, and they may also provide special training and services.

Districts may provide special education services to those children who have not yet reached school age. Districts which have less than a minimum number of eligible handicapped children as determined by the state board regulations shall cooperate with other districts to maintain a full sequence of programs for education, training and services for handicapped children. **(Sec. 120.17 MSA) (L)**

All children who are "too deaf or too dumb, or too blind to profit from regular instruction in the public schools, must be sent by their parents to Faribault school for the deaf."**(Op. Att'y. Gen., Oct. 17, 1927)**

The above opinion seemed to be reversed in the following opinion. Section 2895 of Mason's 1927 Statutes provides for the establishment of special classes for the blind. If the classes were established in the district, then attendance could be made compulsory. However, if classes were not established, the school district could not force parents of blind children to send their child to the State School for the Blind.

resp.

M.S. 1957 §131.081 make it mandatory that all districts provide special education services to the handicapped children of the district. If services are not made available, then the district must provide tuition and transportation or board for children to receive special services in another district. If parents are paying all or part of the tuition, then the school system is not eligible for State aid for the child's education. **Op. Att'y. Gen., Sept. 9, 1959 and Oct. 7, 1959)**

In *Donnelly v. Minnesota,* plaintiff Donnelly, age 18, represents the class of retarded persons, ages five to 21, eligible for but denied public education. Plaintiff Bakken, age 29, represents the class of retarded persons age 22 and over who were denied an education because of their retardation. The defendants are the state and its board of education. Plaintiffs allege that in February, 1973, the state board of education discontinued funding work activity programs for the mentally retarded and only such programs available are those in institutions. Since work activity is educational, plaintiffs allege that they are being denied their legally guaranteed education. It is requested that the state provide these programs. The suit, which is still pending, was filed on May 2 and on May 23, 1973, defendants denied charges.

POPULATION

Definitions: Handicapped children in Minnesota include "every child who is deaf, hard of hearing, blind, partially seeing, crippled or who has defective speech or who is otherwise physically impaired in body or limb, so that he needs special instruction and services, but who is educable as determined by the standards of the state board.

"Every child who is mentally retarded in such degree that he needs special instruction and services but who is educable as determined by the standards of the state board is a handicapped child.

"Every child, who by reason of an emotional disturbance or a special behavior problem, needs special instruction and services, but who is educable as determined by the standards of the state board, is a handicapped child.

"Every child who is mentally retarded in such degree that he requires special training and services and who is trainable as defined by standards of the state board, is a trainable handicapped child." **(Sec. 120.03 MSA)(L)**

"Special learning disabilities are those educational problems which are not effectively reduced by ordinary and generally available educational techniques and facilities. They may be related to perceptual, intellectual, attitudinal, developmental, motivational and social factors which adversely affect the child's education attainment." **(R)**

"Students who have disorders of articulation, fluency, language or voice are eligible for services. These disorders may be functional in nature or may result from conditions such as palatal dysfunction, cerebral palsy or other neurological dysfunctions, hearing loss, mental retardation or laryngeal pathology among others. Before a decision regarding the placement of students in speech programs can be made, a careful diagnosis and assessment must be made to determine whether or not a student is actually in need of a program and if so, to determine what an appropriate clinical program for him should be." **(R)**

"Those pupils whose hearing loss is handicapping educationally and developmentally but who rely upon listening for communication skills are hard of hearing."

"Those pupils whose hearing loss is handicapping educationally and developmentally and rely primarily on visual input for development of communication skills are deaf." "Those pupils whose speech deviates from acceptable speech in a given environment are speech impaired. The deviation may be either organic or functional in nature." **(R)**

Age of Eligibility: School age means the ages of four to 21 for children who are deaf, blind, crippled or have speech defects; ages five to 21 for mentally retarded children; and six to 21 for emotionally disturbed children. In no cases shall services extend beyond secondary school. **(Sec. 120.17 MSA)(L)**

Children with pulmonary tuberculosis are not considered crippled children. Special classes for these children within a hospital would not be reimbursable, as the children are not deemed crippled. **(Op. Att'y. Gen., August 26, 1921)**

Any child who cannot profit from or who cannot safely attend a regular classroom because of any physical impairment is considered crippled. Thus, a child with a heart ailment is considered crippled. **(Op. Att'y. Gen., May 11, 1943)**

Each child must be considered individually to determine whether his or her impairment fits into the definition in Minnesota's Laws 1943, Chapter 251, which outline the definition of handicapped. A child with a cardiac problem or of "low vitality" amy or may not be considered crippled. The basis for being considered crippled is, as in the May 11, 1943 opinion above, whether a child can profitably and safely be educated in a regular classroom. **(Op. Att'y. Gen., July 7, 1943)**

If a child is unable to walk to school because of severe bronchial asthma or "frequent episodes of pneumonia" or epileptic seizures as certified by doctors, the State Board of Education is authorized to pay for this transportation cost under L. 1947, c. 633, Sec. 8, subd. 4. The above statute states that transportation costs are reimburseable for crippled children unable to walk to school. However, it also says "but are unable to carry the regular courses of study." The above mentioned physical conditions only affected the walking to school and not the ability "to carry the regular courses of study." The Attorney General felt the State Board of Education should determine the facts in the cases and decide whether the transportation cost should be reimbursed. **(Op. Att'y. Gen., March 18, 1949 and January 15, 1951)**

Laws 1941, Chapter 169, Art. VI 8, sub. 1 permits the establishment of kindergartens for children between the ages of 4 and 6. Art. XI, § 8, permits the establishment of special classes for the deaf between the ages of 4 and maximum school age. Art. XII, § 1, provides free education for all between the ages of 5 and 21. Art. XII, § 5, makes school attendance mandatory for all between the ages of 8 and 16. Art. XI, § 12, provides for the establishment and maintenance of special classes for crippled children of *school age*. Since *school age* is not specifically defined, a special class for handicapped children *is allowed* for children of any age as long as the superintendent is of the opinion that the child is *able to receive* instruction in a public school. **(Ops. Att'y. Gen., October 20, 1941 and July 30, 1942)**

IDENTIFICATION ASSESSMENT, AND PLACEMENT

Census: An annual school census must be taken, including an enumeration of all children requiring special education by categories designated by the state board, as required for reports of the commissioner

of education. The school census must show the name and date of birth of each person and the name and address of his parent or guardian or other person having control of the child and any other necessary data. Conducting the census is the responsibility of the individual school districts. **(L)**

It is the responsibility of the local school district to identify all school age handicapped children residing in the district who are not enrolled in a public or non-public school within 30 days after school begins each year. In addition to the identification of such children, the school district should assess the educational needs of these children and make the necessary provisions for providing the educational services for which the children are eligible. Those children not provided educational services should be reported to the board of education for formal demission action. **(R)**

School districts must also account for district children located in institutions elsewhere, and make sure that they are receiving education that satisfies the compulsory school attendance laws; they should check on these children at least once annually. **(R)**

School districts have a legal responsibility not only to provide services to handicapped children of school age, but also to locate those in need of services. The school age for students with speech disorders is between the ages of four and 21, or completion of secondary school or its equivalent. When developing the identification portion of the service plan, reference should be made to each of the following points, including inservice training which may be necessary, i.e. referrals from school personnel. **(R)**

In seeking out students from kindergarten to age 21 or completion of secondary school, referrals are made by school personnel, other agencies, parents and others.

Assessment and Placement: Public and private hospital facilities may be used for evaluation of children; children may also be referred to private physicians.

Provisions must be made for offering early parent consultation in all cases of handicapped children requiring any evaluation which goes beyond the routine individual intelligence test and group surveys and screening procedures. Extreme care must be exercised in the selection and use of instruments and procedures. **(R)**

A child may be excused from the attendance requirements upon the application of his parent, guardian, or any other person having control of the child to any member of the board, truant officer, principal, or city superintendent for the whole or any part of the school year by the board of the district in which he resides, if is shown to the satisfaction of the board that the child's bodily or mental condition is such as to prevent his attendance at school or application to study for the required period. The clerk of the school board must keep a record of the excuses. Each excuse will state the reason for the excuse, and a copy will be forwarded to the commissioner of education. **(R)**

No school board may exclude, expel or excuse, without sufficient cause, any person from school privileges if he is entitled to admission as a student to the district schools. If a person has been excluded, expelled, or excused by a school board, the action of the board will be reported to the commissioner of education within 30 days.

Parents who request enrollment of a school age handicapped child in the public school should be offered assistance in making plans for the education of the child. **(R)**

The Bureau of Crippled Children may make available to Commissioner of Education records of handicapped children which will be used by Universities for teacher training purposes. The identity of the child must not be included in the records. (Op. Att'y. Gen., August 19, 1940) (See also Finance: Op. Att'y. Gen., Feb. 3, 1942.)

ADMINISTRATIVE RESPONSIBILITY

The state board of education is responsible for promulgating the rules and regulations relative to the qualifications of essential personnel, courses of study and training, methods of instruction and training, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and any other rules and standards necessary for instruction of handicapped children. (Sec. **120.17 MSA) (L)**

Though the state institutions for the deaf, blind, emotionally disturbed, and mentally retarded are under the administration of the department of public welfare, the children at the institutions are encouraged to enroll in the public schools in the district in which the institutions are located. The children will be considered as regularly enrolled in the public schools. (**Sec. 120.17 MSA) (L)**

PLANNING

A state advisory board on handicapped, gifted, and exceptional children, consisting of 12 members appointed by the governor, is created to serve in an advisory capacity to the state board of education, the commissioner of public welfare, and the state board of health. The board will aid in formulating policies and encouraging programs for exceptional children. It is also responsible for continuously studying the needs of exceptional children. **(L)**

FINANCE

BEST COPY AVAILABLE

The state shall pay to any district and unorganized territory: (1) 60% of the salary of essential personnel involved in the educational program for the handicapped. This amount cannot exceed $5600 for the normal school year for each full-time person employed, or a prorata amount for part-time persons or those employed for a limited time, including summer school; and (2) for the employment of an individual jointly with another district or districts or unorganized territory in its educational program for handicapped children, 60% of the salary of essential personnel, but not exceeding $5600 per year for each full-time person employed. **(Sec. 124.32 MSA) (L)**

Districts or unorganized territories will receive for purchased or rented supplies and equipment an amount equal to one half of the sum actually expended, but not exceeding an average of $50 in one school year for each handicapped child.

When a handicapped or mentally retarded pupil cannot be transported on a regular school bus, each district or unorganized territory will be reimbursed for transportation or board or lodging and the prorated amount for summer school for mentally retarded or otherwise handicapped students when approved by the state board. Actual transportation costs may be reimbursed but not exceeding $225 annually. Treasury funds may be used to reimburse expenditures for conveying handicapped pupils between home and school and within the school plant. If school districts provide transportation for children residing within the district attending a licensed state activity center, the district is eligible for reimbursement for mentally retarded or otherwise handicapped children. (L)

Reimbursement paid to a school district for its special learning and behavior problems (SLBP) program is contigent upon approval by the special education section. SLBP programs are approved when: (1) the district provides the section with a description of its SLBP program, which insures that qualified staff are available and have been assigned to a SLBP service system made up of specific components; and (2) the appropriate forms are submitted and procedures followed to attain approval and claim reimbursements. No applications will be reviewed until the program narrative is received by the section or its designated agents. **(R)**

A program including any or all of the following components shall be eligible for reimbursement: parent counseling and guidance through individual and/or group therapy sessions; home visitation (family domicle or demonstration home); in-service training of nursery teachers; preschool group educational activities (nursery school); parent's workshop; individual tutoring of a preschool hearing-impaired child; and site visitation of a nursery school serving a hearing impaired child.

A written contract is required, submitted on Form F65-51 to the special education section of the department of education for approval.

The general pattern of reimbursement for the special education services offered school age hearing impaired children will be followed: 60% the hourly rate paid to a teacher holding appropriate certification, to a maximum of $6.06 per hour; 60% the hourly rate paid to a teacher aide working directly under the supervision of special education personnel; and $5,300 per year for each full-time professional staff member employed to serve in an approved program and holding appropriate certification.

The general pattern of reimbursement for special education supplies and equipment in classes for children with special education needs will be followed: 50% of supplies and equipment, to a maximum of $50 per child, whichever is less. Standard rates of reimbursements will apply for necessary hearing evaluations to determine eligibility of children to enter the program.

When a handicapped child is placed in a residential facility approved by the commissioner and established primarily to serve handicapped children, and when the child's educational program is approved by the commissioner, the state shall pay to the resident district not to exceed 60% of instructional costs charged to the resident district, less the foundation aid per pupil unit payable to the resident district. Not more than $300,000 shall be spent annually for purposes of implementing this subdivision. If that amount does not suffice the aid shall be prorated among all qualifying districts. **(Sec. 124.32 MSA)**

Approval of a nursery school program for a hearing impaired child is contingent upon periodic in-service training of the nursery school teachers serving hearing-impaired children, as well as periodic site visitation of the nursery school by special education personnel providing the individual tutoring and responsible for the supervision of the comprehensive program for the hearing-impaired child and his family.

Any district wishing to apply for a preschool program for hearing-impaired children using federal monies must contact the special education section, department of education, to determine appropriate financing.

Foundation aids will be prorated on the usual basis. If a preschool hearing-impaired child is receiving instruction for two periods a week, on separate days, he would earn 1/2 unit for each session in attendance.

The foundation aid will be .5 (one half unit) based upon average daily attendance.

The state shall reimburse each district or unorganized territory the actual cost incurred in providing instruction and services for a handicapped child whose district of residence has not determined and who is temporarily placed in a state institution or a licensed residential facility for care and treatment. This section does not apply for a child placed in a foster home or a foster group home.

Upon following such procedure as requested by the commissioner of education a district or unorganized territory providing instruction and services for such handicapped child may bill the state the actual cost incurred in providing said services including transportation costs and a proportionate amount of capital outlay and debt service, minus the amount of foundation aid, special education aid, transportation aid, and any other aid earned in behalf of such child, such action pursuant to limits set forth in Minnesota Statutes, Section 124.32, Subdivision 4. **(Sec. 124.32 MSA) (L)**

For the 1974-1975 school year the state shall pay to each school district for all school transportation and related services for which the district is authorized by law to receive state aid: (1) The lesser product of either:

(a) The actual net operating cost per eligible pupil transported during the 1975 fiscal year time the number of eligible pupils transported during the 1975 fiscal year; or

(b) 110 percent of the actual net operating cost per eligible pupil transported during the year ending June 30, 1973, times the number of eligible pupils transported during the 1975 fiscal year;

(2) Minus the amount raised by a levy of one mill times the adjusted assessed valuation which is used to compute the transportation levy limitation for the levy collected in calendar year 1974;

(3) Plus, the amount of depreciation for one year on the school bus fleet computed by the department of education on a straight line basis at the rate of ten percent per year of the net cost of the fleet.

Subdivision 2. Notwithstanding subdivision 1, for the 1974-1975 school year the state shall pay to school districts having boundaries coterminous with the boundaries of a city of the first class for all school transportation and related services for which a district is authorized by law to receive state aid: Eighty percent of the lesser product computed pursuant to clause (1) of subdivision 1, plus 80 percent of the amount computed pursuant to clause (3) of subdivision 1.

The state shall pay to each school district 30 percent of its estimated school transportation aid entitlement for the 1975 fiscal year on or before each of the following dates: September 30, December 31, and March 31. The actual balance for the district shall be paid on or before August 31 of the following fiscal year. Subdivision 3. Special Payment. In addition to other payments authorized by law, August 31 in fiscal year 1975 only, the state shall pay to each school district ten percent of the amount paid to the district in fiscal year 1974 for school transportation services provided in fiscal year 1973. (Sec. 124.222 MSA)(L)

For the 1974-1975 school year and thereafter, school transportation and related services for which state transportation aid is authorized are:

(1) Transportation or board of resident pupils who reside one mile or more from the public schools which they could attend, or transportation to, from, or between the schools they attend pursuant to a program approved by the commissioner of education, or who reside one mile or more from a private school actually attended, but only to the extent permitted by Minnesota Statutes, Section 123.76 to 123.79 with respect to private school pupils; provided that state transportation aid is authorized in an amount not to exceed $700,000 annually for the transportation of any elementary pupil, of the commissioner determines that the transportation is necessary because of extraordinary traffic hazards;

(2) Transportation to or board and lodging in another district, of resident pupils of a district without a secondary school; the pupils may attend a classified secondary school in another district and shall receive board and lodging in or transportation to a district having a classified secondary school at the expense of the district of the pupil's residence.

(3) Transportation for residents to a state board approved secondary vocational center;

(4) Transportation or board and lodging of a handicapped pupil when he cannot be transported on a regular school bus, and the conveying of handicapped pupils between home and school and within the school plant;

(5) Transportation of resident handicapped children to licensed daytime activity centers attended by the children;

(6) When necessary, board and lodging for nonresident handicapped pupils in a district maintaining special classes;

(7) Services described in clauses (1) to (6) when provided in conjunction with a state board approved summer school program. (Sec. 124.223 MSA)(L)

A handicapped pupil was sent to another district because no transportation was available in the home district, and a bus from another district went by the child's home. The parents of the child paid the tuition and transportation costs. The home school district is not allowed to reimburse the parents for either tuition or transportation costs. (Op. Att'y. Gen., June 2, 1924)

The county may pay, under the poor laws, for the maintenance of a crippled child at an institution if the child is poor as defined by the statutes. The boy had been recommended to the institution to learn watch repairing by the Department of Education. (Op. Att'y. Gen., September 22, 1931)

The Attorney General was asked in 1941 to determine from the laws the appropriate amounts of State reimbursement to be paid to school districts for certain handicapped children. It seems that new statutes had been enacted and old ones not repealed. It was the Attorney's General opinion that the most recent statutes took precedence, and reimbursement should be based on the most recent enactment. (Op. Att'y. Gen., May 6, 1941 and September 22, 1941)

Again questioning the newly enacted 1941 statutes affecting the education of handicapped children, two sections regarding transportation reimbursement seemed to be in conflict. The Attorney General interpreted the conflict in favor of continuing the full aid for transportation or board for crippled children. (Op. Att'y. Gen., July 10, 1941) (See also Right to Education, Op. Att'y. Gen., September 9, 1959 and October 7, 1959)

Laws 1941, Chap. 169, Art. XI, § 9, and Art. IX, § 13, provide for the establishment and state reimbursement for special classes for the blind. There must be at least five students with "actual attendance" in the "sight saving class." However, as long as five students are in the special class, school systems can receive special class aid for blind students not in the special class and/or who are enrolled in vocational programs, as long as all students are supervised by qualified teachers of a sight saving class. (Op. Att'y. Gen., Oct. 3, 1941)

Parents of a child with "deformed eyeballs" transported their child to school. The school system could not receive reimbursement from the state to give to the parents for the transportation costs. The child is not considered crippled so no transportation special education costs are reimburseable. (Op. Att'y. Gen., October 9, 1941)

A child who was unable (according to her physician) to attend the school in her district because it is too far away was transported and enrolled in another district closer to her home. The home district must pay tuition to the other district only if "the majority of voters present at a regular or special meeting of the district" vote to provide the tuition. In case of emergency, however, the board could authorize sending students to another district. (Op. Att'y. Gn., January 9, 1942)

Law 1941, Article IX, § 13 allows $250 of State aid for the education of handicapped children in special classes. $150 extra is allowed for the board and room of handicapped students from other districts. Part of these funds can be used for transportation. If a school system with special classes accepts students from outside the district and receives $400 in State aid, room and board must be provided. If the district does not provide room and board, it is entitled to only $250 of State aid. The $150 for room and board for nonresident students can be used for transportation in lieu of room and board if permitted by the State Board of Education. A contract can be made with the sending district and/or parents of the handicapped child to pay for room and board or transportation costs which exceed the $150.00. (Op. Att'y. Gen., January 27, 1942)

Under laws 1943, Chapter 498, Section 3(b), $150.00 is provided for board and room or transportation of handicapped students to nonresident districts for special education if it is not provided by the home district. State aid for transportation costs is given directly to the district providing the transportation whether that be the child's home district or the nonresident district which the child attends special classes. (Op. Att'y. Gen., February 28, 1944 and March 31, 1944)

Under Laws 1941, Chapter 169, Article IX, § 8, districts with high schools are paid "tuition" by the State to educate students from districts with no high schools. Laws 1941, Chapter 169, Article IX, § 13, authorizes aid for special classes for the handicapped. A school system is allowed to collect under both statutes for handicapped students from other districts. However, it is the intent of the law that this money is needed and should be used for instruction and is not a bonus. (Op. Att'y. Gen., February 2, 1942)

State Aid for the education of the handicapped in special classes can only be allotted for those certified as being handicapped (below the maximum IQ in this case). Other students may be placed in the special class even though they do not qualify. Reimbursement can only be for the handicapped in the special classes. (Op. Att'y. Gen., February 3, 1942)

School systems with special classes can continue to receive State reimbursement for handicapped children outside their district even though the parent of the child pays the full tuition or cost of such education. The minimum number of handicapped children in a special class (5) to be eligible for State aid can be made up of both resident and nonresident students. (Op. Att'y. Gen., June 11, 1942)

A school system may provide but cannot be compelled to provide transportation for a crippled child to attend a nonresident school system closer to the child's home. However, the home district "has no right to act in an arbitrary manner." (Op. Att'y. Gen., February 13, 1943 and see also January 9, 1942)

Laws 1943, Chapter 498, Section 13(e) provides for the reimbursement to school systems for the education of handicapped children both in special classes and in the home. It also states that the amount spent in 1942-3 cannot exceed the previous year. The State Board of Education does not have the power to grant any aid for homebound children because before 1942-3 there was no authority to reimburse for homebound instruction. Thus, none was paid. There is then no basis on which to base any payments. (Op. Att'y. Gen., May 11, 1943)

State aid can be paid for the transportation of a child who is crippled to attending a class for "mental defectives". For a multiply handicapped child, the reimbursement may be based on the regulations regarding the crippled, blind or deaf. (Op. Att'y. Gen., March 10, 1950)

The cost of maintenance of physically handicapped children including cost of medical and hospital care, plus education, is originally a county charge. The expenses of a physically handicapped child whose parents are capable of paying are to be borne by the parents. (Op. Att'y. Gen., September 27, 1935)

State reimbursement can be made to a school system for transporting to summer school a crippled child for educational purposes. **(Op. Att'y. Gen., December 13, 1956)**

Upon approval by the Commissioner of Education, a school system may rent space from another school, public or private, to set up special classes for handicapped children. No tuition or transportation cost may be paid for a handicapped child to be educated in another state. **(Op. Att'y. Gen., September 11, 1950)**

State reimbursement can be made for transportation, handicapped training aid and vocational training aids even though the governor vetoed the bill containing specific appropriations. According to the Attorney General this decision is consistent with the Minnesota Constitution. It says the State must "establish a general and uniform system of public schools" throughout the State. The Commissioner of Education must certify the reimbursements given to school systems. **(Op. Att'y. Gen., September 3, 1971)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The parent or guardian of a handicapped child residing in a district not providing special instruction and services within its district may apply to the commissioner for services for his child under one of the methods provided. If the commissioner finds that the local district is not providing the services, he will arrange for the special instruction needed. If the services are provided outside the district of residence, transportation or board and lodging and tuition will be paid by the district of residence. **(L)**

Two or more of the independent school districts number 621 through 624 in Ramsey County, and independent school districts 832 and 834 of Washington County are authorized to enter into an agreement to establish a special intermediate school district with a majority vote of the full membership of the board of each of the concerned districts. When the resolution is adopted by the board of one of the districts, it must be published at once in a general circulation newspaper in the district. If a petition for referendum on the question of the district entering into the agreement is filed with the clerk of the board within 60 days after publication of the resolution, and signed by 5% of the qualified voters of the district, no board is able to decide the question of whether the district shall enter into an agreement until the agreement has been submitted to the voters at a special election. If a majority of votes cast on the question within the district is in favor of the question, the board may then proceed to enter into an agreement to establish the special intermediate school district. The school district will be known as the Northeastern Metropolitan Intermediate School District, State of Minnesota. The commissioner is responsible for assigning an appropriate identification number.

The intermediate district will be responsible for furnishing to all eligible persons residing in any part of the district instruction in vocational technical education and special education. The intermediate school board, in order to pay for any administrative, planning, operating, or capital expenses, is certified by the county auditor of each county as a single taxing district with the ability to levy an annual tax. **(L)**

The tuition rate will be the actual costs of providing special services to the handicapped children, including a proportionate amount of capital outlay and debt service minus the amount of special aid for handicapped children received on behalf of that child. If the boards involved cannot agree upon a tuition rate, a board might apply to the commissioner to fix the rate. The commissioner will then set aside a date for a hearing, giving each board at least 10 days' notice. After the hearing the commissioner will make his orders fixing the tuition rate which will be binding on both districts. **(L)**

Responsibility for special instruction and services for handicapped children temporarily placed in a district other than his district of residence will be determined in the following manner: (1) the school district of residence of the child will be the district in which his parent resides, if living, or his guardian, or the district designated by the commissioner of education, if neither the parent nor guardian is living within the state; or (2) the district providing the instructional program will bill the district of the child's residence for the actual cost of providing the program as outlined above, except that the board, lodging, and treatment cost incurred on behalf of the handicapped child placed outside of his school district of residence by the commissioner of public welfare, the commissioner of corrections, or their agents for reasons other than the provision of special education needs do not become the responsibility of either the district providing the instruction or the district of the child's residence. The district of residence will pay the tuition and other program costs to the district providing the instruction, and the district of residence may claim foundation aid for the child. Special transportation costs will be paid by the district of residence. The district of residence is eligible for state transportation reimbursement. **(L)**

Responsibility for special instruction and services for handicapped children placed in a state institution on a temporary basis will be determined in the following manner: (1) when the educational needs of the child can be met through the institutional program, the cost for such instruction shall be paid by the department to which the institution is assigned; (2) when it is determined that the child can benefit from public school enrollment, provisions for instruction will be made in the following manner: (a) the commissioner of education and the commissioner of the department responsible for the institution will jointly determine the child's eligibility for special instruction and services; (b) the school district where the institution is located shall provide an appropriate educational program for the child and will make a tuition charge to the district of residence for the actual cost of providing the program; and (3) the district of the child's residence will pay the tuition and other program costs and may claim foundation aid for the child. The legal residence of the handicapped child for whom parental rights have been terminated by court order and who has been placed in a foster facility will be the school district in which he has been placed. The school board of the district of residence will provide the same educational program for the child as it provides for all resident handicapped children in the district. **(L)**

Any school district, or unorganized territory or combinations thereof, may enter into an agreement to provide special instruction and services to handicapped children. One of the participating units may employ and contract with necessary personnel to offer services in the several districts [illegible] participating [illegible] the employing unit a proportionate amount of [illegible] providing the special instruction and services, less the amount of state reimbursement which will be claimed in full

There are general procedures for development and implementation of the Special Learning and Behavior (SLBP) program.

The school district must designate who is to be held responsible for developing and maintaining quality SLBP services, i.e., who is going to supervise the local SLBP program. The concept of quality services includes adaptation of the child's program once he is admitted to the system including movement out of it. It includes guidance of the in-service training of both regular and special education personnel involved in the conduct of the SLBP services. This person must be someone who meets state standards for certification as an SLBP program supervisor. If the district is not able to employ someone who meets these standards, the following alternatives are possible:

a. The district may be given state department approval to employ someone who is partially qualified and may be able to complete requirements for full certification within a period of time to be determined by the state department of education.

b. Qualified supervisory service may be acquired by purchase from another school district, interdistrict service cooperative, college, mental health center or other logical means.

c. It may be possible to make arrangements for the program to be supervised by a regional special education consultant. However, because of their broad program development responsibilities over wide areas of the state, they are not able to assume extensive, direct responsibilities of this kind.

d. Arrangements may be made for direct state department of education supervisory responsibility for the program.

More local automony in program decision is permissable where qualified local school district SLBP supervision is available, because this person can be held accountable for judging whether sound educational principles have been violated when deviations are made to accommodate particular cases. Quality control limits must be adhered to more rigidly when the state department has to exercise supervisory responsibility, because continuous first-hand monitoring cannot be maintained by that agency.

The State Teachers' College has no authority to transport crippled children, and the State Department has no authority to reimburse a Teachers' College for transporting crippled children. **(Op. Att'y. Gen., Nov. 29, 1943)**

SERVICES

Special instruction or training or services for handicapped children may be provided by one or more of the following methods: (1) special instruction and services in connection with attending regularly elementary and school classes; (2) the establishment of special classes; (3) instruction and services at the home or bedside of the children; (4) instruction and services in state college laboratory school, or a University of Minnesota laboratory school; (5) instruction and services in other districts; (6) instruction and services in a state residential school or a school department of a state institution approved by the commissioner or any other method approved by him; (7) instruction and services in other states', or (8) contracting with public, private, or voluntary agencies. (Sec. 120.17 MSA) (L)

The individual components of a comprehensive preschool program for hearing-impaired children in Minnesota are: parent counseling and guidance, in group and individual therapy sessions; nursery school experience with hearing children; in-service training of nursery teachers; site visitations of nursery schools serving hearing-impaired children; individual tutoring of the hearing-impaired child; parents' workshop; and home visitation (demonstration home or family domicile). (R)

When services are provided in another district, the child's district of residence will pay transportation, including transportation to and from school and the place where the child is boarded, and will be eligible for state transportation reimbursement. (R)

Transportation for handicapped children may be furnished between home and school and within the school plant, and between home and a licensed state activity center.

Parents must furnish transportation to the Minnesota Braille and Sight Saving School and the Minnesota School for the Deaf. (R)

Children may be transported by school buses either owned or rented by the school district or by contract with a private contract hauler or parent. (R)

The state reimburses actual transportation costs, but not exceeding $225 per pupil annually or $1.35 per day to districts providing special transportation to mentally retarded or otherwise handicapped students when approved by the state board. The school district must have paid the cost of transportation before it receives reimbursement aid. (R)

Additional reimbursement may be allowed for transportation of a pupil between a boarding home and the school he attends, but reimbursement for transportation of such a pupil between his resident home and his non-resident place of boarding will not be allowed. (R)

When two or more children from the same family residence are transported by the parent or guardian to the same school in a family vehicle, cost for reimbursement aid is to be calculated on the basis of one child only. (R)

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Class Size:	NUMBER OF PUPILS Minimum	NUMBER OF PUPILS Maximum
LEARNING DISABLED		
Special Class	–	8
AURALLY HANDICAPPED		
Preschool Integrated Nursery School Class	–	5
EMOTIONALLY DISTURBED		
Special Learning and Behavior Problems – Resource Program	–	15[1]
Special Learning and Behavior Problems – Itinerant Program (caseload)	–	15[2]
Special Learning and Behavior Problems – Special Class	–	8[3]
Special Learning and Behavior Problems – Individual Instruction (caseload)	–	15
Special Learning and Behavior Problems – Small Group Instruction	–	4

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[1] less if some children have serious behavior problems

[2] less if travel time is extensive

[3] maximum age range in a class equals three years

For a number of years, the W.P.A. furnished teachers for homebound handicapped children. When the W.P.A. was discontinued, no instruction was given, and a local school district did not have the legal authority to provide instruction in the home to crippled children. (Op. Att'y. Gen., January 19, 1943, April 20, 1937, and February 2, 1922)

A school system may provide special education classes in a hospital if the classroom complies with Laws 1943, Chapter 498, Sections 1 and 2 (at least five students, etc.) and approval is given by the Commissioner of Education. (Op. Att'y. Gen., August 11, 1943)

"Only in so far as the expense related to education" can support be given for the education of hospitalized children. School districts are responsible for the education of hospitalized children. School districts are responsible for the education of hospitalized children, but not the physical rehabilitation of them. Thus education given to hospitalized children during the summer would also not be supported. (Op. Att'y. Gen., October 23, 1944)

A school system is not allowed to hire a tutor for a seriously emotionally disturbed child to do his school work at home even though this was the recommendation of the diagnosing agency. (Op. Att'y. Gen., Nov. 13, 1956) See also January 19, 1943 and April 20, 1937 above.

A school system could provide facilities which would be the living unit of nonresident handicapped students and also part of the instructional facilities for all handicapped students. Part of the *education* given to the handicapped could be the development of self help and personal care skills. State reimbursement could be given for a group supervisor, attendants, and aids if approved by the State Board of Education. (Op. Att'y. Gen., April 4, 1960)

PRIVATE

Deaf, hard of hearing, partially seeing, crippled, speech defective, physically impaired, trainable mentally handicapped; educable mentally handicapped, and emotionally disturbed are eligible for private placement. (R)

School districts are not obliged to pay tuition for private schools unless they have been involved in the placement process. Private placements may be made only if considered the best method of meeting the child's educational needs. (R)

The school district retains the final decision to contract for educational services with private schools. (R)

Three copies of the contract must be submitted to the special education section which reviews the contract, decides whether the service provided is appropriate, and determines the amount of state aid to be paid. No state aid will be paid for services rendered before the commissioner of education has approved the contract. The school district is eligible for special aids in addition to the minimum foundation program. (R)

Either in or out of state placements may be authorized. (R)

The following types of facilities may be approved by the commissioner.

A) A residential facility operated by a public school district and designed to serve the low incidence handicapped the multiple handicapped, or the most severely handicapped children, either within or outside of the state, or a state residential school outside of the state.

B) A private, nonsectarian residential facility designed to provide educational services for handicapped children either within or outside of the state.

C) A state hospital or private nonsectarian residential center designed to provide care and treatment for handicapped children. (Sec. 124.32 MSA) (L)

Contracts should be made for each child. They should include and account for all costs for which the school district agrees to be responsible. Transportation or room and board costs should be contracted for separately. (R)

A school board may lease rooms for school purposes, but if leased rooms are in a nonpublic school building, all religious symbols must be removed from the rooms, all teachers must be public school teachers, and at least some of the pupils must be public school pupils. (R)

Providing educational services or training through a contractual agreement with an agency does not remove or lessen the school district's responsibility for the child. School officials should adopt all necessary procedures to assure that continued placement is appropriate. An ongoing monitoring process should be adopted as part of the standard process of evaluating a private institution's suitability for contracting purposes. (R)

A county has no authority to pay for the education of a handicapped child in another State even though no programs or facilities are available in Minnesota. (Op. Att'y. Gen., **November 15, 1951 and Sept. 11, 1958)** See also **Finance**.

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary (Regular Certificate No. 4)

valid grades K-6: bachelor's degree; professional education (24), student teaching (6)

Eligibility for Secondary Certificate No. 5

valid for grades 7-12 bachelor's degree; professional education (14), student teaching (4)

Teachers of Exceptional Children (Certificate No. 7)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

MISSISSIPPI

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare

RIGHT TO AN EDUCATION

Constitution: "It shall be the duty of the Legislature to encourage by all suitable means the promotion of intellectual, scientific, moral and agricultural improvement by establishing a uniform system of schools by taxation or otherwise, for all children between the ages of 6 and 20 years, and as soon as practicable to establish schools of higher grades." **(Art. VII, Sec. 201 Miss. Const.) (L)**

Policy: "The purpose of this act is to provide competent educational services and equipment for exceptional children as defined in this act for whom the regular school facilities are not adequate." **(Sec. 6631-01 Miss. Stats.) (L)**

Responsibilities: In any school district where properly interested persons or agencies, or the parents or guardians of five or more of any one type of exceptional children, or of types which may be taught together, petition the board of trustees or governing board of the district for a special class or classes, the school authority shall request, within 30 days of the date of the filing of said petition with said board, the state department of education to cooperate in securing a screening team, approved by the state department of education, to diagnose and evaluate the exceptional children referred to the school authority by the petitioner, parents or guardians, district school personnel, governmental and nongovernmental agencies which serve the same area as the school district.

Where the screening team identifies five or more exceptional children of any one type, or of types that can be instructed and trained together, the school authority shall request that the state department of education cooperate in the establishment of the necessary class or classes under rules and regulations established for this purpose by the state department of education. Two or more school districts may join together and contract to establish a special class or classes. **(Sec. 6631-06 Miss. Stats.) (L)**

POPULATION

Definitions: "Any child of educable and trainable mind under twenty-one years of age for whose particular educational needs instructional care and training are not available in this state, or who cannot pursue regular class work due to reason or reasons of defective hearing, vision, speech, mental retardation or physical condition, as determined by competent medical authorities and psychologists, shall be considered an exceptional child for the purpose of this act, provided that the medical authorities and psychologists are approved by the state board of education. This specifically includes, but shall not be limited to, provision for day schools for the deaf and blind of an age under six (6) years, where early training is in accordance with the most advanced and best approved scientific methods of instruction, always taking into consideration the best interests of the child and his improvement at a time during which he is most susceptible to improvement." **(Sec. 6631-06 Miss. Stats.) (L)**

"Specific learning disability is defined as a primary and significant discrepancy between ability and achievement associated with suspected or known neurological handicap."

"A child may exhibit behavior frequently associated with neurological damage, such as perseveration and hyperactivity. As the child's primary symptom is an academic failure in conjunction with normal or above average intelligence, he is not to be confused with the mentally retarded who has exhibited below average intellectual functioning, or the emotionally disturbed child whose primary problem in the classroom may be, for example, extremely regressive behavior." **(R)**

"The definition of a speech and/or hearing handicapped individual must be flexible and dynamic rather than static or rigid. Speech and hearing disorders cover a wide range in cause and complexity. Certain problems result from physical conditions, such as hearing disorders, neural damage, glandular dysfunction, dental irregularities, cleft palate, or laryngeal anomalies. Medical diagnosis and treatment are recommended prior to the initiation of therapy. Other types of speech and hearing disorders may result, directly or indirectly, from environmental influences, immaturity, or learning deficiencies." **(R)**

"There are many classifications of communicative disorders which appear in speech and hearing literature. However, it is meaningful to include descriptions of the general types of disorders with which speech and hearing clinicians are concerned. These descriptions are as follows:

"1. Disorders of Articulation: Speech defects characterized by substitutions, ommissions, distortions, additions of speech sounds, and inactivity of the speech mechanism.

"2. Disorders of Voice: Speech difficulty caused by faulty production and resonance of the voice and consequently characterized by deviations in loudness, pitch, or quality. A medical examination is a desirable prerequisite to therapy.

"3. Disorders of Language Symbolization: Difficulty in the formulation or understanding of language patterns because of retardation of speech development, mental or emotional imbalances, or injury to the brain or central nervous system.

"4. Disorders of Rhythm: Rhythmic disturbance characterized by repetions, hesitations, prolongation, and interjections in the ongoing process of speech. This type of impairment becomes a serious problem when the time relationship between sounds in a word and words in a sentence interferes with communication." **(R)**

"Certain speech disorders are classified by their medical diagnoses. These disorders include speech associated with:

"1. Cleft Palate: Speech disorders characterized by excess nasility and articulatory defects caused by a cleft in the palate and/or lip.

"2. Cerebral Palsy: Speech and language disorders characterized by difficulties in the articulatory, phonatory, respiratory, resonating, and auditory mechanisms that result from central nervous dysfunction primarily affecting the motor area.

"3. Hearing Impairment: Speech and/or language disorders characterized by problems in reception, expression, integration, and symbolization caused by a disturbance of auditory function." **(R)**

Age of Eligibility: Children are legally eligible for services from birth through age 21.

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Screening: The state department of education will approve for financial assistance only the special education classes where the pupils have been reported eligible by an approved regional screening team. In the initiation of this program in 1952, the special education advisory committee selected by the state board of education recommended the establishment of regional screening teams in various areas of the state to perform the functions of "medical authorities and psychologists" specified in H.B. 51. The membership of the regional screening team was expanded to include other necessary disciplines, but included the "medical authorities and psychologists", as specified in the act. These members, each one of whom must have professional training at the master's degree level or above, are

1. a psychologist with at least a master's degree and experience and training in the individual testing of children;
2. a certified speech pathologist;
3. an educator with knowledge of and interest in the education of exceptional children;
4. a physician, preferably a pediatrician, in good standing with the state medical association and interested in handicapped children;
5. members of other disciplines, such as social work, if they are available; and
6. a chairman well-informed on special education and the screening process. He may be, but is not necessarily, one of the above named persons. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The state board of education shall employ a supervisor of special education whose duties shall be to aid, foster, promote, inspect, and guide the program for exceptional children as authorized by this act. The state board of education shall prescribe the exact duties of the said supervisor, among which shall be the following:

1. see that the provisions of the act concerning eligibility of children for the program are carried out;
2. examine budgets, plans, and applications to assure the expenditure of funds in keeping with the provisions of this act;
3. formulate standards and approve classes for their efficient operation;
4. provide guidance and assistance in planning and organizing classes;
5. give consultative services to administrators and teachers of exceptional children;
6. advise with parents on problems of exceptional children;
7. prepare bulletins and instructional aids and materials;
8. arrange workshops, conferences and institutes for the inservice training of teachers; and
9. disseminate information on the program. **(Sec. 6631-03 Miss. Stats.) (L)**

PLANNING

Statutes contain no provisions for the handicapped in this area.

FINANCE

Sixty percent of a teacher unit will be authorized for each teacher employed in a special education class. The state board may also reimburse districts for any expenses incurred in transporting exceptional children. **(Sec. 6248-02 Miss. Stats.) (L)**

The state board may reimburse districts for any expense incurred in transporting exceptional children, up to 50% of the actual cost. **(L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Two or more school districts may join together by contract to establish a special class or classes. (R)

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SERVICES

When at least five children of educable mind between the ages of six and 21 are confined in a hospital for extended periods of time, these children are provided a program of education, instruction, and training. The need for the extended hospitalization must be certified by the chief of staff of the hospital, and the ability of the children to do school work must be certified by qualified psychologists and/or educators approved by the state board of education. (Sec. 6228.3 Miss. Stats.) (L)

The administrative unit in which the hospital is located is responsible for the provision of the education. Classroom space, furniture, and facilities must be provided by the hospital. The hospital must enter into a contract with the local administrative unit saying that the administrative unit will provide the necessary space, furniture, and facilities as well as provide for their upkeep, fuel, and other necessary expenses for the successful operation of the program. (See Finance) (Sec. 6228.3 Miss. Stats.) (L)

Children who are physically handicapped or crippled may receive transportation to the public schools, regardless of the one mile transportation limitation, if the failure to provide it would result in undue hardship. (Sec. 6336-04 Miss. Stats.) (L)

In a Class I county having a total population of more than 100,000 in the 1960 census, a total assessed valuation in excess of $60,000,000, and which borders the Gulf of Mexico and contains a federal military base, a board of education may establish a child development center for children of the county who are mentally or physically retarded or otherwise unable to attend the public school. These children include, but are not limited to, those with educable or trainable minds under age 21 and for whose particular education needs institutional care and training are not available. In addition, the child cannot be able to pursue regular classwork because of defective hearing, vision, speech, mental retardation, or physical conditions. This condition must be determined by competent medical authorities and psychologists approved by the state board. This program specifically includes, but again is not limited to, the provision for the deaf and blind under age six if early training is in accordance with the most advanced and best approved scientific methods of instruction, taking into consideration the best interests of the child and his improvement at the time during which he is most susceptible to improvement. (Sec. 6631-31 Miss. Stats.) (L) (Private bill for one county)

Braille print will be taught in the school for the blind. The use of this print is included in high school literary courses for students at the school. Every teacher and instructor in the state school for the deaf whose duties include the oral instruction of pupils must become acquainted with the most efficient and advanced methods of lip-reading. These teachers must also be masters of the manual alphabet in order to communicate with pupils who cannot read lips in order to aid students participation in activities outside the classroom. All pupils entering the school will be given oral instruction until it is clearly determined whether they can master lip reading to the extent that satisfactory progress can be made in their studies. Manual instruction will be provided in all subjects for all pupils unable to progress under oral instruction alone. (Sec. 6785.005 Miss. Stats.) (L)

Class Size:	NUMBER OF PUPILS	
	Minimum	Maximum
SPEECH HANDICAPPED		
Special Class	25	75
AURALLY HANDICAPPED		
Special Class	5	7 - 15
DEAF		
Special Class	5	8 - 10
EDUCABLE MENTALLY HANDICAPPED		
Special Class	5	--
TRAINABLE MENTALLY HANDICAPPED		
Special Class	5	--
PHYSICALLY HANDICAPPED		
Hospital Class	5	--
EMOTIONALLY DISTURBED		
Special Class	5	--
VISUALLY HANDICAPPED		
Special Class	5	
BLIND		
Special Class	5	--

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Much confusion has existed in the speech programs of the public schools because of lack of clear distinction between speech improvement and speech therapy.

Speech improvement is concerned with the modification of deviations within the range of normal speech. It is the systematic instruction in oral communication for the purpose of developing articulation, voice, language abilities, and listening skills that enable all children to receive and communicate ideas effectively. Speech improvement is concerned with such skills as pronunciation, poise, projection, and inflection. The speech activites through which these skills are applied and strengthened include informal talks, oral sharing, and reporting related to various interests subject areas, oral reading and phonics as a part of spelling and reading, choral speaking, creative dramatics, and storytelling. These activities are the responsibility of the classroom teacher and take place in the classroom. The speech and hearing clinician may act as a consultant to this program by providing the classroom teacher with suggestions regarding planning, activities, and materials. The dissemination of information about the prevention of speech, hearing, and language problems is the role of the speech and hearing consultant.

PRIVATE

Children under the age of 21, who have not graduated from high school and who cannot pursue regular class work due to reasons of defective hearing, vision, speech, mental retardation, or other mental or physical conditions as determined by competent medical authorities and psychologists, are entitled to receive state financial assistance to attend parochial or private schools. **(Chap. 304, 1971) (L)**

The state department of education has the authority to enforce reasonable rules and regulations and establish standards for the administration of this program consistent with the maintenance of high quality programs for the benefit of those exceptional children served. **(Chap. 304, 1971) (L)**

Financial assistance to students attending private or parochial schools is paid in the following manner: the department of education determines the amount to be paid by prescribing classification of applicants and programs developed so that all applicants having the same classification receive equal financial assistance. Financial assistance cannot exceed the obligation actually incurred by the applicant, and no applicant will receive more than $600.00 per school year from available state funds. If the department disapproves an application, it must send notice to the applicant, through the parent, guardian, or person standing in loco parentis by certified mail. Then the applicant may apply, within 10 days after receiving the notice, to the state board for a hearing and must be given a prompt and fair hearing. If the application is again disapproved after the hearing, notice is again sent the applicant through the parent, guardian or person standing in loco parentis by certified mail. The applicant may, within 10 days after receiving this notice, file in the chancery court of the county for a hearing on the matter on all questions of fact and of law. The petition shall be served on the state superintendent.

The board prepares a certified transcript of the record of the case for the office of the clerk of the court. The record must include a copy of the application and any official findings, orders, and rulings of the board in the case. The board shall also have 30 days after the filing of the petition to appeal and file exceptions, answers, and other pleadings. The board may be granted, by order of the court, additional time for preparation of the certified transcript of the record and for appealing and filing an exception, answers, or other pleadings. After considering the law, the pleadings and evidences that may be introduced in the case, the court may modify it or reverse the findings of the board and make issue and enter its judgment accordingly. Appeal from any such judgment shall be subject to the procedures applicable to appeals and ordinary civil action. Any person who seeks to expend any financial assistance for any purpose other than payment or reimbursement to any school shall commit a misdemeanor, and upon conviction is punished by a fine not exceeding $500 or not more than six months in jail or both. **(Chap. 304, 1971) (L)**

Placements are permitted in schools both within and without the state. **(L)**

Schools may be private or parochial. The state department has the authority to enforce reasonable rules and regulations and to establish standards for the administration of the program. **(L)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Class A Special Education Certification

bachelor's degree including general education (48), professional education (18), student teaching (3), specialization (24)

Eligibility for Class AA Special Education Certificate

hold or eligibility to hold Class A Certificate for special education, master's degree including 15 hours in area of specialization or hold or qualify for Class A Certificate for elementary, secondary in special subject plus master's degree with 24 hours specialization

NOTE Permits equivalent to the highest class of certificate which a teacher holds will be issued in the areas of mental retardation, physically handicapped, visually impaired, hearing handicapped upon completion of 6 hours in special education including servey course (3) and one special course in area of endorsem [illegible]

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

BEST COPY AVAILABLE

STATE PROFILE

MISSOURI

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

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Constitution: "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state between the ages of six and 20 years." **(Article XI, Sec. 1 Mo. Const.) (L)**

Policy: In order to fully implement the state constitution's mandate for free public school education of all persons under 21 years of age, it is declared the policy of the state of Missouri to provide or to require public schools to provide special educational services sufficient to meet the needs and maximize the capabilities of all handicapped and severely handicapped children. The need of such children for early recognition, diagnosis and intensive educational services leading to more successful participation in home, employment, and community life is recognized. The timely implementation of this policy is declared to be an integral part of the policy of the state. **(HB 474 Sec. 1) (L)**

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to the compulsory attendance requirements, but "a child who, to the satisfaction of the superintendent of schools of the district in which he resides, or if there is no superintendent, then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required or any part thereof. . . ." **(Sec. 167.031 Mo. Stats.) (L)**

The compulsory attendance requirement does apply to blind and deaf children, and to educable mentally retarded and crippled children for whom special classes are provided. If instruction is provided at home it must be substantially equivalent to the instruction provided in the special classes. **(Sec. 167.041 Mo. Stats.) (L)**

Responsibilities: The board of education of each school district in this state, except school districts which are part of a school district, and the board of education of each special school district shall provide special educational services for handicapped children five years of age or more residing in the district and may provide special educational services for handicapped children under the age of five years residing in the district. **(HB 474, Sec. 7.1) (L)**

The board of education of the special district may establish schools within any school district comprising the special district for any of the children designated in this Act, and may establish programs for any such children within any school district included in the special district in classrooms furnished by the school district, if the number of children available for instruction in such classrooms is sufficient under standards determined by the state board of education. **(HB 474, Sec. 47) (L)**

Compulsory attendance is required for all students between the ages of 7 and 16 for a period of 6 hours a day at one school. However, the Superintendent of Public Schools of a district may determine that a student because of some physical or mental incapacity should be excused from full time attendance. In the Special School District for Handicapped Children in St. Louis County, free instruction is given to all handicapped children under the age of 21, who reside in the County. Part-time classes are also allowed in the Special School District if it is deemed best for the child. **(Op. Att'y. Gen., Feb. 15, 1963)** See also **Services (Op. Att'y. Gen., July 11, 1973)**

POPULATION

Definitions: "The term 'exceptional child' as used herein includes children who deviate from what is supposed to be average in physical, mental, emotional, or social developmental characteristics to such an extent that they require special educational services in order to develop to their maximum capacity." **(Sec. 178.260 Mo. Stats.) (L)**

"A pupil who is deaf or hard of hearing is one who is educable, who is between the ages of five and 20 years, and whose auditory impairment precludes meeting his educational needs adequately in a regular classroom. Mandatory ages for providing appropriate instruction are between six and 20 years. It is permissive to enroll five year old pupils in approved programs." **(R)**

"Children with learning disabilities are defined as those children with normal or potentially normal intelligence who, because of some neuro-psychological factor, are noted to have learning disabilities of the perceptual, conceptual, or integrative nature. Children with major sensory and motor deficits such as the blind, the deaf, the cerebral palsied, the mentally retarded, or children whose learning deficit clearly is of emotional origin without concomitant neuro-psychological factors, are excluded from this category as there are already established programs and services to meet their needs." **(R)**

Age of Eligibility: Special education must be provided children between the age of five and 21. Children may be enrolled in existing or approvable kindergarten programs. **(Sec. 178.260 Mo. Stats.) (L)**

"Handicapped children" are children under the age of 21 who have not completed an approved high school program and who, because of mental, physical, emotional or learning problems, require special educational services in order to develop to their maximum capacity.

"Severely handicapped children" are handicapped children under the age of 21 who, because of the extent of the handicappeding condition or conditions, as determined by competent professional evaluation, are unable to benefit from or meaningfully participate in programs in the public schools of a regular or special nature.

"Gifted children" are children who exhibit precocious development of mental capacity and learning potential as determined by competent professional evaluation to the extent that continued educational growth and stimulation could best be served by an academic environment beyond that offered through a standard grade level curriculum. **(HB 474, Sec. 2) (L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census County superintendents, under the direction of the state department of education, conduct an annual census of all children who appear to be physically or mentally handicapped. These handicapped persons under age 21 are recorded showing the name and address of parents; nature of the child's handicap and whether it is physical, mental or emotional; how and by whom it was diagnosed; the child's attendance or non attendance in a public, private, or state school; and any other information pertinent to maintaining a complete record.

Boards of education of all three and six director school districts and superintendents of all six director school districts assist county superintendents in locating and reporting those handicapped children residing within the several county school districts. (Sec. 167.087 Mo. Stats.) (L)

The board of education of each school district, including school districts which are part of a special school district, shall take or cause to be taken annually a special census of handicapped and severely handicapped children under the age of 21 residing in the district or whose parent or guardian resides in the district. The census shall include the name of the child, the parent or guardian's name and address, the birth date and the age of the child, and the handicapping condition or conditions. When medical or other information is available it shall be used in establishing the handicapping condition or conditions, or if such information is not available, the statement of parents or other qualified observers of the child shall be accepted for the census report pending completion of medical, psychological, or other recognized evaluation. (HB 474, Sec. 6) (L) (Effective July 1, 1974)

Identification of children with speech disorders is generally accomplished through schoolwide screening at the beginning of the program, followed by whatever annual survey is considered necessary by the speech clinician, who is responsible for identifying these children in consultation with school personnel. All new pupils entering the school should be surveyed or screened. (R)

In considering the child who is deaf or hard of hearing, eligibility should be predicated on a completed study of the child, his needs, his interests, his abilities, and his disabilities. The decision must be based upon records and information received from an otologist, audiologist, other specialists as deemed necessary, and the school authorities. (R)

While enrolled in a class for the deaf or hard of hearing, pupils should be considered a part of the regular school and should not necessarily be completely segregated for all work.

Pupils should be returned to their regular classes whenever medical and educational reports indicate that the need for special attention no longer exists. It is recommended that as careful consideration be given to returning pupils to their regular classes as is given to admitting them to special classes. (R)

The school administration is in charge of all admissions to special education programs. A physically or mentally incapacitated child may be excused from school attendance by the district school superintendent or chief school officer. (R)

Every local school district or, if a special district is in operation, every special school district shall obtain current, appropriate diagnostic reports for each handicapped child prior to assignment in a special program. These records may be obtained with parental permission from previous medical or psychological evaluations, may be provided by competent personnel of such district or special district, or may be secured by such district from competent and qualified medical, psychological or other professional personnel. (HB 474 Sec. 6) (L) (Effective July 1, 1974)

The state department of education may assign severely handicapped children, except severely handicapped children residing in special school districts and in districts with approved special educational services for severely handicapped children, to state schools for severely handicapped children, the school for the blind or the school for the deaf. Furthermore, the state board of education may contract for the education of a severely handicapped child with another public agency or with a private agency when the state department of education determines that such an arrangement would be in the best interests of the severely handicapped child. Assignment of severely handicapped children under this section shall be made to a particular school or program which, in the judgment of the state department of education, can best provide special educational services, and such assignment shall be made upon the basis of competent evaluations; provided, however, the assignment may be appealed by a parent or guardian pursuant to Sections 60-66 of the Act. Children who are not residents of this state may be admitted to these schools if the schools have the capacity to receive them and upon payment of full tuition and costs as prescribed by the state board of education. (HB 474 Sec. 15) (L) (Effective July 1, 1974)

The board of education of the responsible local school district or of the responsible special school district or the state department of education shall notify every parent or guardian of every child diagnosed, evaluated, reevaluated or assigned under the provision of this act of the results of any diagnosis, evaluation, or reevaluation made pursuant to the terms of this act, and of the recommended assignment, change in assignment, or denial of assignment of the child to a class or program provided under this act. The notice shall be in writing, mailed to the last known address of the parent or guardian by certified mail, return receipt requested. The notice shall advise the parent or guardian that, upon request, the parent or guardian shall be permitted to inspect, at the school attended by the child or at another convenient place at any time during regular school hours, all records pertaining to said child including all diagnoses, evaluations, or reevaluations obtained by the board of education or the state department of education. The notice shall also contain information as to the procedure for requesting a review of any action taken by the board of education or the state department of education. (HB 474 Sec. 60) (L) (Effective July 1, 1974)

The notification shall contain the information that upon written request to the board of education or to the state department of education made within 10 days of the date of the notification the parent or guardian will be entitled to a hearing on the action advised of in the notice. Such a hearing, if requested, shall be held not more than 30 days after receipt of the request. If no request for hearing is made, the assignment or other action shall be made.

The notification shall also contain the information that upon written request by the parent or guardian to the board of education or the state department of education, whichever the case may be, at any time but not to exceed once per year, the board of education or the state department of education shall cause a reevaluation to be made. **(HB 474 Sec. 61) (L) (Effective July 1, 1974)**

No change in the assignment or status of a handicapped or severely handicapped child shall be made within the period afforded the parent or guardian to request and obtain a hearing under Sections 61 and 64 except that such change may be made with the written consent of the parent or guardian. If the health or safety of the child or of other persons would be endangered by delaying the change in assignment, the change may be sooner made but without prejudice to any rights that the child and his parent or guardian may have pursuant to this Act or otherwise pursuant to law. **(HB 474 Sec. 62) (L) (Effective July 1, 1974)**

The hearing provided for in Section 61 shall be conducted by the chief administrative officer of the school to which assignment has been made. The hearing shall be informal, witnesses need not be sworn, and a record of the proceedings need not be made. The school district or the state department of education shall see that the parent or guardian or their representative is advised of and permitted to review all diagnoses, evaluations and reevaluations obtained by the board of education or the state department of education which pertain to the child. The school district or state department of education shall fully advise the parents or guardian or their representative of each reason relied upon by it in taking the proposed action. The parents or guardian or their representative may present any information whether written or oral to the officer which pertains to the recommended action. Cross-examination is permitted. **(HB 474 Sec. 63) (L) (Effective July 1, 1974)**

If a satisfactory solution is not reached at this hearing, the parent or guardian may appeal within 10 days to the board of education of the district or, in the case of a state school, to the state board of education. Not more than 30 days after receipt of the request for appeal, a hearing shall be held before either the board of education of the district, or in the case of a state school, before the state board of education. At least 14 days written notice shall be given to the parents or guardian of the child of the date, time, and place of hearing. The board of education of the district may designate a person or persons not directly connected with the original decision and the state board of education may designate a member of the staff of the state department of education in Jefferson City to hold the hearing and to recommend to the board findings of fact and specific action based thereon. Findings of fact and a final decision shall be rendered by the board of education of the district or by the state board of education, as the case may be, at the earliest possible time but in no event longer than 30 days after the day the hearing is concluded. **(HB 474 Sec. 64) (L) (Effective July 1, 1974)**

At any hearing held pursuant to Section 64 of this Act, the parent or guardian or their representative shall be entitled to examine and cross-examine witnesses, to introduce evidence, to appear in person and to be represented by counsel. Prior to the hearing, the parent or guardian or their representative shall have access to any reports, records, clinical evaluation or other materials upon which the action to be reviewed was wholly or partially based which could reasonably have a bearing on the correctness of the determination.

A complete record shall be made of all proceedings at this hearing which record shall include verbatim transcription of all testimony and shall include all documents, writings or other evidence presented by any party. **(HB 474 Sec. 65) (L) (Effective July 1, 1974)**

The decision of the board of education of the district or the state board of education shall be final except that any person aggrieved by the decision may appeal as provided in Chapter 536, Revised Statutes of Missouri. A copy of the board's decision together with a copy of its findings of fact shall be mailed on the day the decision is rendered to the parent or guardian by certified mail, return receipt requested. **(HB 374 Sec. 66) (L) (Effective July 1, 1974)**

ADMINISTRATIVE RESPONSIBILITY

The state board is responsible for adopting standards and approving all special education programs, the number of enrolled children constituting an approved program and eligibility requirements for special education services. **(Sec. 178.270 Mo. Stats.) (L)**

Within the division of public schools there is a special education section. The board, upon receiving the recommendation of the state commissioner of education, appoints a director of special education. **(Sec. 161.162 Mo. Stats.) (L)**

The schools for the deaf and blind are under the authority of the section of special education of the division of public schools. The state board of education has overall governing responsibility for the schools. **(Sec. 178.010 Mo. Stats.) (L)**

PLANNING

The state commissioner of education may appoint such state and area advisory committees as he deems necessary to review special educational services to handicapped and severely handicapped children and to consider any problems presented by the commissioner of education with respect to the provision of educational services to handicapped and severely handicapped children and to give advice thereon. Such committees shall include persons broadly representative of community organizations interested in the handicapped and severely handicapped, professions related to the educational needs of the handicapped and severely handicapped and the general public. The members of such committees [illegible] at the discretion of the Commissioner of Education. (HB 474 Sec. 5) (L) Effective July 1, 1974)

There shall be a board of advisors for the Missouri School for the Deaf and for the Missouri School for the Blind, each composed of five members, appointed by the Governor with the advice and consent of the Senate.

The members of each board shall hold their office for the term of four years and until their successors are appointed and qualified.

The board shall act in an advisory capacity in regard to the maintenance, operation, management, control and all other matters relating to the conduct and improvement of the Missouri School for the Deaf and the Missouri School for the Blind.

The board of advisors for each school shall meet bimonthly. At the regular meeting following the appointment of new members, each board shall organize by electing one of its number President and one Vice President and shall elect such other officers as it deems necessary. Three members of the board constitute a quorum, but no business shall be transacted unless the majority of the whole board votes thereon.

Each member of the board of advisors of the School for the Blind and of the board of advisors of the School for the Deaf shall receive as compensation for his services the salary of one hundred dollars per annum and [illegible] expenses. (HB 474 Sec. 29.1) (L) Effective July 1, 1974)

FINANCE

All school districts and special school districts operating approved special education programs receive state aid at the rate of $7,500 per year for each class enrolling emotionally or socially exceptional children, $[illegible] per year for each professional staff member excluding special education classroom teachers, and up to $400 per year for each homebound child [illegible] of children receiving special services outside the special [illegible] (Sec. 163.151 Mo. Stats.) (L)

Districts serving children for less than a full day will be reimbursed on a prorated basis. State aid is granted only if the professional personnel in charge of the program has been specially trained for working in special education and if that training is in accordance with the regulations of the board. (Sec. 178.270 Mo. Stats.) (L)

Each special district formed under provisions of this Act shall receive an amount for each pupil in average daily attendance equal to the sum of the amounts received by all districts comprising the special district for the preceding school year under provisions of Section 163.031, Revised Statutes of Missouri, divided by the total number of children of school age in average daily attendance in the schools of such districts during that year. A student enrolled in classes or programs of both the special district and a component district or a pupil enrolled in a local district who needs itinerant or temporary services provided by the special district shall continue his enrollment in the local district for purposes of apportionment of State aid on average daily attendance. The special district may include the pupils in classes approved for special categorical aid. The district providing transportation may claim State transportation aid. (HB 474 Sec. 58.1) (L) Effective July 1, 1974)

The special school district is entitled to apportionment of state aid in the same manner as six-director school districts even though the tax rate levied by the special school district is less than that required by Section 163.021, Revised Statutes of Missouri. (HB 474 Sec. 58.2) (L) Effective July 1, 1974)

The board of education of the special school district shall determine as nearly as possible the per capita cost of its programs and file the same with the state department of education. Upon approval thereof by the state department of education, the board of education of the special school district shall require of all resident students wishing to participate in the programs of the special school district a tuition fee in an amount approved by the state department of education. (HB 474 Sec. 69) (L) Effective July 1, 1974)

Per pupil costs of contractual arrangements shall be the obligation of the district of residence, except districts which are part of a special school district or special district of residence provided, however, that if the contract is with another district or special district, the district providing the services under contractual arrangements in determining the amount of state aid to which said district is entitled as provided in Section 68 of this Act and such state aid shall not be used in determining the total per pupil cost for which the district of residence is responsible. If the contract is with a public agency or a nonprofit organization, the district of residence shall be entitled to receive state aid as provided in Section 163.031, Revised Statutes of Missouri, and in Section 69 of this act. When the state board of education contracts for special educational services pursuant to subsection 1, the state board of education shall submit to the responsible district a bill for the per pupil cost payable by that district under the terms of this subsection. Failure of a district to pay such cost within 90 days after a bill is submitted by the state board of education shall result in the deduction of the amount due by the state board of education from subsequent payments of state moneys due such district or special district. (HB 474 Sec. 8.2) (Effective July 1, 1974)

State aid shall not be granted unless the professional personnel employed in special educational programs have been specially trained for work in the programs and the amount of such training shall be in accordance with regulations promulgated by the state board of education. In approving special education programs for state aid the department of education shall determine that the quality of programming, the supportive staff and services, facilities, supplies and transportation are at least equal to that provided normal children attending school in the district. Supporting auxiliary personnel to assist teachers of handicapped and severely handicapped children may be employed in accordance with standards established by the state board of education. (HB 474 Sec. 10) (L) Effective July 1, 1974)

Mentally retarded children, who have been sent to a group home in Missouri by their parents who reside in another state, are considered bona fide residents of the State of Missouri, and are the obligation of the school district in which the home is located. The children can receive tuition-free education at a State Training Center. **(Op. Att'y Gen., April 8, 1971)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Voters in all counties may organize and create a special school district to educate and train physically and mentally handicapped children and provide vocational education for the county. If two or more counties are included in the district, services will be provided to children in all such counties. If a special district is organized, it is a political subdivision of the state and may be known as "the Special District for the Education and Training of Handicapped Children of ________ County (or counties), Missouri," or any other name selected by the board. The district has the duties, powers and rights of and possesses the same corporate powers as six-director school districts, other than urban districts. Constitutional provisions and laws applicable to the organization and government of six-director school districts, other than urban school districts, are applicable to county special districts. The boundaries of the special school district coincide with the boundaries of the county. The special school district, which can exist in addition to any other school district within the county, may provide free instruction, classes and schools for persons, each of whom is under age 21, who are physically or mentally handicapped, including the blind or partially seeing, the deaf or hard of hearing, the crippled, and the mentally retarded or mentally deficient who are capable of instruction, and as approved for other categories of physically or mentally handicapped children which are hereafter approved for special instruction by the state commissioner of education, including hyperkinetic children, those of the type having a dysfunction in the area of behavioral and learning where the brain does not function correctly because of immaturity, on a concrete or metabolic basis and children having a word blindness, seizures and aphasia." **(L)**

The board of education of a special school district may establish schools or classes within the schools of any district within the county for any of the children designated above. Classes are established in classrooms furnished by the school districts when requested by the board of directors of any of the individual school districts and when there are a sufficient number of children available. All construction costs are paid by the special school district. Children attending the schools and classes of the special district are included in the attendance records of the district for state aid purposes. The special school district is entitled to the same reimbursements as six-director school districts, although the duties of special districts are less. **(L)**

Transportation may be provided by the special school district to all handicapped children receiving special education services. **(L)**

The special school district may contract with any other school district in the county to establish a special class in a school of that district in order to integrate children into regular classes on a part-time basis. The special school district will pay a tuition rate based on the percentage of time the child is in the regular class. **(L)**

The special school district has the power to levy and collect taxes within the limits of the state constitution and to issue bonds. **(L)**

If a school district or special district fails or is unable to provide special educational services to each handicapped child as required in this Act, the district shall contract with a nearby district or districts or public agency or agencies for such special education services. If the board of education of the district finds that no adequate program for handicapped children is available in nearby districts or through public agencies, it may contract with nonprofit organizations within the state which have programs meeting the standards established by the state board of education. If such district fails to contract for such services, the state board of education may contract for such services with a nearby district or districts or public agency or agencies. If the state board of education finds, after investigation of the state department of education, that no adequate program for handicapped children is available in nearby districts or through public agencies, the state board of education may contract with nonprofit organizations within the State which have programs meeting with standards established by the state board of education. Any contracted placement of children under this section shall be made to a particular school or program which, in the judgment of the state department of education, can best provide special educational services to meet the needs of the child and such placement shall be made upon the basis of a competent evaluation. The state board of education may use ad hoc advisory committees in developing standards for approving programs and evaluate programs offered by nonprofit organizations. **(HB 474 Sec. 8.11 (L) (Effective July 1, 1974))**

SERVICES

BEST COPY AVAILABLE

If a child cannot economically, safely, or conveniently attend classes, home instruction may be provided. Regulations for home instruction will be established by the state board of education. (Sec. 178.260 Mo. Stats.) (L)

Boards of education may provide transportation to and from school for all exceptional children who could not otherwise attend. State aid is provided for such transportation. (Sec. 178.260 Mo. Stats.) (L)

The state board of education is responsible for formulating plans for establishing in any county or district composed of two or more counties training centers for trainable mentally retarded children whom the state board determines are capable of profiting by specialized instruction. (Sec. 162.380 Mo. Stats.) (L)

Special school districts may provide transportation to all handicapped children receiving special education services. (L)

State aid is provided to school districts providing transportation to exceptional children. (R)

To the maximum extent practicable, handicapped and severely handicapped children shall be educated along with children who do not have handicaps and shall attend regular classes. Impediments to learning and to the normal functioning of such children in the regular school environment shall be overcome, whenever practicable, by the provision of special aids and services rather than by separate schooling for the handicapped. (HB 474 Sec. 3.1) (L) (Effective July 1, 1974)

Class Size	NUMBER OF PUPILS Minimum	NUMBER OF PUPILS Maximum
SPEECH HANDICAPPED		
Speech Therapist (weekly caseload)	80[1]	125
LEARNING DISABLED		
Special Class	6	10
Resource or Itinerant Teacher (caseload)	10	20
AURALLY HANDICAPPED		
Special Class	6[2]	14
DEAF		
Special Class	6	9
EDUCABLE MENTALLY HANDICAPPED		
Special Class	10	20
TRAINABLE MENTALLY HANDICAPPED		
Special Class	10	20
PHYSICALLY HANDICAPPED		
Special Class (Orthopedically Handicapped)	10*	20
EMOTIONALLY DISTURBED		
Special Class	6	10
Resource or Itinerant Teacher (active caseload)	15	20
VISUALLY HANDICAPPED		
Special Class	6*	12
BLIND		
Special Class	6*	8

[1] A smaller caseload may be approved under exceptional circumstances.

[2] Smaller classes may be approved under exceptional circumstances.

* A special school district formed under the provisions of House Bill 1096, 76th General Assembly, Sections 178.640-178.765, V.A.M.S. (1) would immediately upon formation become responsible for providing vocational education and special education for physically and mentally handicapped children resident within the county or counties included in the special district; however, the board of education of a special district would be required to accomplish at any given time only that which is reasonably possible; (2) would have no legal obligation to employ special education teachers under contract by component districts at the time of formation of the special district; (3) should present an estimate of the amount of money to be raised by taxation for the ensuing school year and the tax rate necessary to sustain the schools of the special district for the ensuing school year to the county clerk of each county included within the special district on or before July 15; and (4) may secure special educational services and vocational training services for children within its boundaries by contracting with any school district which has authority to furnish such services. If House Bill 474, 77th General Assembly, is signed by the Governor, it will not affect the organization or existence of an already existing special district but will govern the operation of all special districts." (Op. Att'y. Gen., July 11, 1973)

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary Certificate (Certificate No. 4)

valid grades K - 8: bachelor's degree, general education (53), professional education (15), student teaching (5)

Eligibility for General Secondary Certificate (Certificate No. 5)

valid grades 7 - 12: bachelor's degree, general education (40), professional education (13) student teaching (5), specialization (varies)

Eligibility for Special Education Teacher (Certificate No. 7)

bachelor's degree, eligibility for Certificate No. 4 or No. 5, specialization (varies)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

FINANC

STATE PROFILE

MONTANA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "It shall be the duty of the Legislative Assembly of Montana to establish and maintain a general, uniform, and thorough system of public, free, common schools." **(Art. IX, Sec 1, Mont. Const.) (L)**

"Provision shall be made for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of said State of Montana and free from sectarian control." **(Ordinance I, Sec. 4, Mont. Const.) (L)**

Compulsory Attendance Law: A child between the ages of seven and 16 (and who has completed the eighth grade) will be exempted from the compulsory school attendance provisions "upon satisfactorily showing that the bodily and mental condition of the child does not permit his attendance at school." **(Sec. 75-2901 RCM) (L)**

Local boards do have the right to exclude persons of severe delinquent behavior. **(Sec. 75-5003 RCM) (L)**

Responsibilities: The parents or guardians of four or more educable or trainable mentally retarded children or physically handicapped children of one type living in one town or neighboring towns where children can easily be brought together to form a special class may petition the district board or boards of trustees to establish a special teaching program. The district board or boards of trustees shall then request the state board of education for any assistance the board of education considers appropriate in the organization of such a program. **(Sec. 75-7807 RCM) (L)**

The board of trustees, responsible for the operation of any school district, may establish special education classes if there are not less than four educable mentally retarded or physically handicapped children in the district. If there are at least 10 educable mentally retarded, 7 trainable mentally retarded, or 10 physically handicapped children in the district, the board of trustees shall maintain at least one special class for educable mentally retarded, trainable mentally retarded, or physically handicapped children. **(Sec. 75-7805 RCM) (L)**

POPULATION

Definitions: "Children and youth with learning handicaps means any young handicapped person (mentally retarded or physically handicapped) 25 years of age and under who is not able to achieve socially, academically, physically, and vocationally to his or her level of expectancy as determined by a qualified examiner's assessment of learning aptitude, academic achievement, physical capabilities and/or sensory-motor performance." **(R)**

"Physically handicapped means a young person who has a physical condition or disability which impedes his or her educational progress in the conventional classroom." **(R)**

"Sensory-neurological and/or speech and language impaired means children and youth who are blind or partially sighted and/or deaf or hearing impaired or who have speech and language impairments." **(R)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: Each school district must annually screen their students to determine potential candidates for special education. The screening approach must use a committee consisting of three or more persons who are able to contribute knowledge about a potential candidate and his or her learning environment. Committee members may be selected from these personnel areas: school administrator, special education or regular classroom teacher who is currently or has previously instructed the individual, school psychologist or guidance and counseling person, school or public health nurse, school social worker, remedial education person, and school speech and hearing clinician. **(R)**

Assessment and Placement: Children and youth who are determined by the screening committee to be potential candidates for special education are required to have a thorough individual evaluation. A qualified individual testing person or clinical psychologist must determine conditions of mental retardation, a speech and hearing clinician must determine speech and/or language impairments, and a physician must determine physical handicaps. **(R)**

With the exception of speech and hearing handicapped and homebound or hospitalized individuals receiving itinerant services, a thorough case study must be prepared for each candidate for a special education program. This case study must be undertaken by a committee such as the one used for screening, and the results of the case study must be the basis for the decision concerning placement. The receiving classroom teacher must be included in the placement decision. Committee decisions must be verified through the signature of the chairman of the screening committee on the class or program rosters submitted to the superintendent of public instruction. The results of the individual diagnostic evaluations, along with the class roster and application form, must be submitted to the state superintendent. The evaluation report of psychological and educational appraisal should include: an individual assessment of the student's abilities and disabilities as measured by tests of learning aptitude and academic and social achievement. Individual assessments of learning aptitude also are recommended for physically handicapped persons; and, placement recommendations stated in terms of instructional programs which will provide the maximum benefit to the handicapped person.

To be eligible for enrollment in a speech therapy program, the child must possess a speech defect, as determined by a qualified speech pathologist in examination conducted within 12 months prior to application for enrollment.

A copy of the diagnosis and prognosis, signed by the consulting pathologist, together with a copy of the prescribed therapy program for any pupil not previously assigned to a Montana speech therapy class, must be submitted to the state superintendent of public instruction. **(R)**

Approval of special education placement in a class or program will not be considered until the evaluation procedures and a committee conference have been completed for the individual. **(R)**

Before a child is placed in special education for a second year, an individual reevaluation is recommended. Be fore the third year of special education placement in a class or program an individual reevaluation is required. Individual assessments are not required again until the seventh and eleventh years of the special education student's participation in a program. It is recommended that individual learning aptitude assessments be accompanied by readiness or academic achievement information at the primary, intermediate and early pre-vocational levels. At the latter pre-vocational and work study levels, occupational evaluation information should accompany individual learning aptitude assessments to assist in world of work orientation, career education, and work selection. **(R)**

Physically handicapped students who have been approved for special education placement by a qualified professional, with the exception of homebound and/or hospitalized programs, are not required to have supporting data resubmitted with succeeding application forms. Special permission may be given by the superintendent of public instruction to waive the supporting data requirement for some homebound and/or hospitalized students who are chronically ill and whose health condition is not expected to change. **(R)**

The type and amount of speech therapy to be given to the child, beyond a certain minimum, is determined by the speech pathologist. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The state superintendent of public instruction, with the approval of the state board of education, is responsible for establishing regulations and prescribing the necessary qualifications for teachers of mentally handicapped children. The state superintendent, with the assistance of the state board of health and with the approval of the state board [illegible] education, is responsible for directing and supervising special education programs for mentally and physically handicapped children. He also appoints a supervisor for special education.

The state superintendent is the agent for cooperation and consultation with federal agencies, other agencies, and private bodies on public school education for mentally and physically handicapped children, reserving to other agencies the full responsibilities of other aspects for the care of such children. Courses of study, sizes of classes, adequacy of instructional methods, the distances to be traveled to each school or class, and the necessary equipment for special services for mentally and physically handicapped children must comply with the requirements prescribed by the state board of education. **(Sec. 75-5006 RCM) (L)**

The state superintendent of public instruction, with the approval of the state board of education, is responsible for preparing the courses of instruction in the discovery and education of exceptional children. **(Sec. 75-1402 RCM) (L)**

The supervisor for special education must be a graduate of a four-year accredited institution of higher learning, with a master's degree representing at least one year of post graduate training in exceptional child care, guidance, and testing and, in addition, two years' experience in the same. **(Sec. 75-1403 RCM) (L)**

The supervisor shall be responsible for "discovering the exceptional child throughout the state by observation, examination, and by intelligence, emotional, and achievement tests, and any other methods deemed necessary and expedient by him and to administer an educational program for exceptional children." Provisions of this act are not mandatory on any school or school district.

The supervisor is also responsible for seeing that the necessary courses of instruction are available for all teachers in training and inservice. He may recommend ungraded classrooms in schools, and "he may hold conferences, cooperate, advise, and investigate the school superintendents, principals, school faculties, physical examinations and perform any other duties not specified by this act but directed to him by the state board of education or by the state superintendent." **(Sec. 75-1404 RCM) (L)**

The state board of education is responsible for the state school for the deaf and the blind. **(Sec. 75-301 RCM) (L)**

PLANNING

School district officials plan, budget, and apply for new or anticipated special education classes. The state superintendent approves or disapproves the application. **(R)**

It will be necessary for each school district having a program of any size to develop a program plan within the district. This plan should involve specific objectives for the education, training, and corrective activities which are intended to meet the broad goals of the program. Within the plan, consideration would be given to obtaining the resources which will enable the special education personnel to sufficiently meet the program objectives. Finally, the program should contain evaluative criteria which relates specifically to the program objectives. These criteria will be used to ascertain the effectiveness of the program. **(R)**

The superintendent of public instruction may appoint a volunteer board of various exceptional child specialists, to whom the supervisor of special education shall, periodically as directed by the state superintendent of public instruction, report, and from whom he may receive counsel. **(R)**

FINANCE

The special education application procedure will require a budget for special education to be submitted with each elementary and/or secondary school district application and program plan. Prorated regular school program costs may be included in the budget. **(R)**

Funds may be transferred from one budget line item to another at any time during the school year; however, special education personnel in the district should assist with the planning for the transfer of such funds. **(R)**

School districts are expected to develop their program plans to provide comprehensive services for handicapped students and to use their special education monies to provide the appropriate resources for meeting specific program objectives. Funds budgeted for special education may not be used for programs not directly benefiting handicapped children and youth. **(R)**

The following procedures for determining the ANB (average number belonging) for state-approved programs have been established:

1. Students enrolled in a self-contained special education class for the mentally retarded or physically handicapped are not included in the regular ANB calculation for the district. ANB for these special education classes is determined as follows:
   a. A self-contained class having not less than seven nor more than twelve students may be counted as 45 ANB and this special education ANB added to the regular ANB for the district.
   b. An approved self-contained special education class having not less than four nor more than six students may be counted on the basis of six ANB per student and this special education ANB added to the regular ANB for the district.
2. A full-time resource room program must have a minimum of seven students and have no more than 24 students to earn the maximum of 45 ANB. 24 ANB may be earned for a program which provides for four students, 30 ANB for five students, and 36 ANB for six students; but the students and/or their teachers and parents must be seen a minimum of three days a week for at least two-hour periods. **(R)**
3. A student regularly enrolled in school and participating in a speech and hearing program is included in the regular ANB calculation for the district. In addition, the district may obtain supplementary special education ANB for the speech and hearing program. The students participating in such a program may also be enrolled in another special education program, but the majority of the case load should be from the regular school program. The speech and hearing program must be applied for along with the regular special education application by the first Monday in February. **(R)**

   Such special education ANB, calculated as provided below, may not exceed 45 ANB per clinician:
   a. one clinician employed 5 days per week = 45 ANB (full-time)
   b. one clinician employed 4 days per week = 36 ANB
   c. one clinician employed 3 days per week = 27 ANB
   d. one clinician employed 2 days per week = 18 ANB
   e. one clinician employed 1 day per week = 9 ANB

   Varying amounts of the ANB calculation may be awarded when districts share speech and hearing services, but again, the 45 ANB limit may not be exceeded.

   When a district requests state approval of a speech and hearing program, the district superintendent must submit a written statement to the superintendent of public instruction indicating the amount of time the clinician will be employed in the speech and hearing program. **(R)**

Approval of advanced budgeting authority will be given to Montana school districts only for special education classes or programs that operate in the ensuing school year. Budgeting authority generated by virtue of having operated a class or program during the previous school year, except individual homebound or hospitalized programs, will not be provided by the state superintendent's office. **(R)**

The state superintendent establishes a schedule for transportation reimbursement. These expenditures are added to the transportation budget of the district. The state will reimburse two-thirds of the approved transportation, and the county will reimburse the remainder of approved transportation according to the schedule. **(Sec. 75-7815 RCM) (L)**

If a child is sent to an institution supported completely by state funds, the child's home district or county is required to pay tuition for the child if while at the institution he attends public school classes in another district. **(Sec. 75-5003 RCM) (L)**

The board of county commissioners of any school district providing special education services for crippled children may levy a tax not exceeding one mill on the dollar on all taxable property within the district, in addition to all other levies for school purposes. This tax would be used for the support and maintenance of special education services to crippled children, but the board of school trustees of the district requiring such a tax must call an election in the manner prescribed by law for extra levies to obtain the approval of the district to make the levy. The election must be held before July 1. **(Sec. 75-1406 RCM) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Two or more districts may combine to provide educational services to handicapped children. Also, the board of trustees in a local district may arrange to use the services of any approved mentally retarded or physically handicapped children's classes and may provide transportation to and from school for all handicapped enrolled in a state approved special education program. **(L)**

If a child who is mentally retarded, physically handicapped, or both is enrolled in a state approved program maintained by an elementary or high school district other than his district of residence, he will be included in the computation of ANB in the district maintaining the program. The child's district of residence will pay to the district twice the tuition for regular education students.

SERVICES

The school board in all districts shall conduct, with the approval of superintendent of public instruction, special schools for the instruction of children who cannot profitably or properly be cared for in the usual schools. Any child of school age whose conduct and habits are such that he cannot, with profit to himself or justice to the other members of the school, be restrained and instructed in the usual schools may, upon complaint to the person having legal control of the child, the principal or head of the school where the child is attending, or the truant officer be required by the superintendent of schools where he is enrolled to attend a special school as provided in this section until the child's habits and conduct become such as to make it advisable and proper for him to be received again in the usual school. **(Sec. 75-6310 RCM) (L)**

The board of trustees responsible for the operation of any public school may establish special education programs

for educable and trainable mentally retarded and physically handicapped children under age six when the super- intendent of public instruction has determined that such programs will 1) enable a child to achieve levels of con- fidence that he will be able to profit from a general education program which he could not do without a special education program, 2) permit the conservation or early acquisition of skills that will tend to provide the child with equal opportunity to take his place with normal children in a general education program, or 3) provide other dem onstrated educational advantages that will materially benefit the child. **(Sec. 75-5001 RCM) (L)**

The board of trustees of any school district may provide, at its discretion, services for the education of the crip- pled between the ages of five and 16 who because of their physical handicaps cannot attend regular public school classes. The board may furnish home tutorial service, or transportation to and from school facilities locally or elsewhere in the state that best meet the child's needs. This decision will be reached by the local board of trustees together with the superintendent of schools based upon recommendations of the division of crippled children's services and the state board of health. **(Sec. 75-1406 RCM) (L)**

All children entitled to attend the state school for the deaf and blind may attend such school until they attain age 21. There is no lower age limit. **(Sec. 80-105 and 80 107 RCM) (L)**

Special education students may be placed in one of three service patterns or kinds of classes or programs. These patterns may be available both to mentally retarded and physically handicapped children and youth if designated standards are met.

The self-contained classroom service pattern generally refers to the special classes or programs which have been used in Montana. The self-contained pattern must provide a classroom program for at least one-half day taught by a teacher trained to serve a specific kind of handicapping condition (mentally retarded or physically handicapped). One special education teacher can be approved to provide services for no more than one class of handicapped stu- dents. If a teacher has a class for only one-half day, the other half day must be spent performing other tasks relevant to the classroom program. The special education teacher must be involved in program planning for a handicapped student when he is integrated into the regular classroom.

The resource room service pattern provides for handicapped students to leave their regular class placement for one or more periods each day for instruction or special tutoring. Such programs may exist in several locations with- in one school district or be shared among more than one school district. The teacher must be properly certified and endorsed in special education and may provide education and training for all handicapping conditions. How- ever, the special education course work emphasized in the teacher's training program should be appropriate for the kinds of handicapped students being served.

The itinerant service pattern includes services to handicapped students who are enrolled in regular classes. In some cases, special services are supplied directly to individual handicapped persons. In other cases, the regular tea- cher or parents are given special instruction on how to help the student. Frequently, both direct contact with stu- dents and parent and teacher consultation may be provided.

Under this service pattern, programs for the handicapped fall into two categories. One program allows students with speech and language disturbances to leave their regular classroom for special corrective work. Another pro- gram provides special tutoring and/or home or hospital telephone hookups for students who cannot attend school for a period of time because of a physical handicap, illness or injury.

Several of these itinerant programs may operate in a given district or be shared among more than one school dis- trict. **(R)**

The self-contained, resource room and itinerant programs will all be acceptable for students possessing ortho- pedic handicaps, sensory-neurological and/or speech and language impairment, or special health problems or other physical disabilities.

To be eligible for enrollment in the self-contained program, a student must: be 25 years of age or under; be phys- ically handicapped, as determined by a medical or appropriate professional examination specific to the major handi- capping condition. The diagnostic evaluation should be conducted within the 12 months prior to application for initial classroom enrollment and a statement of the student's physical condition must be submitted to the state superintendent's office prior to enrollment in a special education program; and be of sufficient social and emo- tional stability to adjust in a group setting, without requiring attention to regulate his activities beyond that which is ordinarily expected in a physically handicapped class.

Each class shall include not less than four nor more than 12 students.

The chronological age span of pupils in any one physically handicapped class shall not exceed five years when only one teacher per class is employed. If the equivalent of one and one-half or more teachers is employed for a class, the maximum chronological age span may be six years. **(R)**

The itinerant service program is most appropriate to school speech and hearing and homebound and/or hospi- talized programs.

To be eligible for enrollment a student must be 25 years of age or under, and be identified as requiring special services provided by qualified school speech and hearing clinicians.

The number of students and the type of services offered each student shall be determined by the school speech and hearing clinician.

A full-time program could consist of 35 to 85 students, depending upon the nature and severity of the communication problems of the students. Another suggested approach is to consider 60 sessions a week being comparable to a full-time program. **(R)**

Transportation is provided to local facilities and to those located elsewhere in the state which meet the child's needs. **(R)**

All standards for the resource room to serve physically handicapped students are the same as for the self-contained classroom standards with the exception of class size. Each resource room program must serve not less than four nor more than 13 students. A full-time teacher's aide is recommended with nine or more students.

The classroom should be located in a regular school building. If most of the students are of elementary school age, a classroom in a secondary school is preferred.

Space must be adequate for special needs of physically handicapped students, and lavatory facilities should provide the necessary special equipment for the orthopedically handicapped.

Classes for the orthopedically handicapped should be on the first floor of the building in which they are located. If this is not possible or practical, elevators or ramps should be provided. Ramps should slope no greater than one foot in 10 feet for safety of wheelchair or crutch movement. It is preferred that the entrance be free of steps and or approached by a ramp. A driveway for buses and automobiles leading to the entrance is desirable. Handrails should be provided along routes of heavy traffic.

School districts should consider purchase or lease of special equipment for vehicles to handle physically handicapped students. Without such special transportation equipment, it may be impossible for physically handicapped students to attend school. **(R)**

Adequate space and facilities must be provided to conduct the school speech and hearing program, including minimum classroom standards with regard to heat, light, ventilation, electrical outlets, exits and space free from major sources of noise.

Adequate special equipment such as clinical materials, reference and resource materials and electrical equipment should be provided. **(R)**

The Montana School for the Deaf and Blind, located in Great Falls, offers special education for the deaf and hearing impaired and for the blind and vision impaired. For children who live outside Great Falls, dormitory residence is maintained. From the department for the deaf and hearing impaired, resource people travel throughout the state to provide a program of home training and pre-school preparation by bringing parents information and guidance.

Any child who is a resident of Montana and is educationally handicapped because of hearing loss or limitation of vision is eligible. There is no minimum age; the maximum age is 21. The child must fall within the limits of intelligence wherein he will profit from an educational program. While the primary handicapping condition must be loss of hearing or vision, this limitation is rather freely administered because of the inexactness of testing methods.

The department for deaf and hard of hearing has a comprehensive program of education and training which encompasses preschool, kindergarten, elementary, and high school and which follows as closely as possible the general course of study of Montana schools. However, the total or partial hearing loss requires greater emphasis on reading, language development, and speech therapy. Transfer of students in and out of the School from regular classes is not only common but also desirable. Often a child needs a "special start" because of sensory deprivation, then learns to adjust to his condition, and can successfully function educationally in a regular school program. Besides the academic program, the school offers prevocational training in business, printing and duplicating, woodworking, photography, and home economics. In cooperation with the Division of Vocational Rehabilitation, a program of on-the-job training and job sampling experiences is arranged for selected students.

Class Size:

	NUMBER OF PUPILS	
	Minimum	**Maximum**
SPEECH HANDICAPPED		
Speech Therapist (full time)	--	45-51 (average number belonging)
DEAF		
Special Class	4	--
EDUCABLE MENTALLY HANDICAPPED		
Special Class	4	15*
TRAINABLE MENTALLY HANDICAPPED		
Special Class	4	12
PHYSICALLY HANDICAPPED		
Special Class	4	15
EMOTIONALLY DISTRUBED		
Special Class	4	--
VISUALLY HANDICAPPED		
Special Class	4	--
BLIND		
Special Class	4	--

*Suggested maximum is 12

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Class 2 Teaching Certificate (Standard)

Certificate No. 2 -- completed teacher education program, bachelor's degree completion 8 or more credits in preceding 5 years. **Secondary endorsement**: major (30), minor (20), professional (16)

Eligibility for Special Education Certificate

valid class 2 certificate, special education specialization (10-24)

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

NEBRASKA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

EDUCABLE MENTALLY HANDICAPPED

RIGHT TO AN EDUCATION

Constitution: ". . . It shall be the duty of the Legislature to pass suitable laws . . . to encourage schools and the means of instruction." **(Art. I, Sec. 4, Neb. Const.) (L)**

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to compulsory attendance requirements.

Compulsory attendance laws do not apply to children who are physically or mentally incapacitated for the work done in school. **(RSN 79-202) (L)**

When an exemption from the compulsory attendance laws is claimed because of mental or physical incapacity, school boards have the right to employ a physician or person skilled in mental diagnosis to examine the child. If the physician or person skilled in mental diagnosis declares that the child is capable of undertaking the work of the school, then such child is not exempt from the requirements of the compulsory attendance laws. **(RSN 79-203) (L)**

All children between the ages of seven and 16 years of age who, because of partial or total blindness, are unable to obtain an education in the public, private, denominational, or parochial schools of the state, shall be required to attend the Nebraska school for the deaf or school for the blind until graduated or discharged by the superintendent, unless they are not eligible for admission to the school because of mental or physical incapacity. **(RSN 79-204) (L)**

Responsibilities: The state board of education shall, at the state's expense, make such provisions as are deemed expedient for the care and education of children who are both deaf and visually handicapped or otherwise multi-handicapped, and for whom there is no other provision in the state. **(RSN 43-601) (L)**

"The legislature desires to reaffirm its position that all children in the state of Nebraska, regardless of physical or mental capacity, are entitled to a meaningful educational program. It shall be the duty of the board of education of every school district to provide or contract for special education programs for all resident children who would benefit from such programs. Such programs shall include, but not be restricted to, the development of self-realization, social awareness, economic usefulness, and civic responsibility." **(L)**

"The special education programs may be provided by any school district, by contracting with another school district, or by some combination of school districts, an educational service unit, combination of educational service units, the local or regional office of mental retardation, any programs operated by the state of Nebraska, or any combination thereof. Any office of mental retardation program receiving funds under the provisions of this act shall not use such funds to match state funds under the provisions of other programs. The members of the board of education of any school districts not offering special education programs acceptable to the state board of education on or before October 1, 1976 and continuously thereafter, shall be in violation of the law. No state funds shall be paid to any school district as long as such violation exists. On September 15, 1976 and on September 15 of each succeeding year, the commissioner of education shall present to the state board of education, the attorney general, the department of administrative services, the state treasurer, and the executive board of the legislative council, a list of all school districts not providing or contracting for approved programs.

This act shall apply to any children from age five to age 18. The state department of education, division of vocational rehabilitation shall assume responsibility for the training of those individuals whose education or training is terminated and for whom additional supportive services are required. **(L)**

POPULATION

Definitions: "'Handicapped children' shall mean either physically handicapped, educable mentally handicapped, emotionally disturbed, specific learning disability children, mentally retarded or such other children as shall be defined by the state department of education."

"'Physically handicapped children' shall mean children: (a) who are residents of Nebraska; (b) who are below age 19; (c) who are crippled, visually handicapped, acoustically handicapped, defective in speech, cardiopathic, tubercular, cerebral palsied, orthopedically handicapped, or otherwise physically handicapped, and (d) by reason of their physical defects, are unable to attend regular public school classes, are not physically adapted to hold full-time membership in regular school facilities, who, in order to profit from regular school instruction, need facilities and procedures not available in regular public school classes attended by physically normal children. Such definition must include the physically handicapped child with mental retardation if, in the opinion of the examining physician, educational psychologist, psychologist, or psychiatrist, the child's condition can be improved materially by education and treatment."

"'Educable mentally handicapped' shall mean children of school age who, because of retarded intellectual development as determined by individual psychological examination and deficiencies in social adjustment, require additional supportive services in order to function profitably within regular educational programming." **(RSN 43-604) (L)**

"'Emotionally disturbed' shall mean children with behavioral disorders variously designated as neurotic, psychotic, or character disordered, and whose inabilities may manifest themselves in school accomplishment, social relationships, or feelings of self adequacy and may result both from experience or biological limitations."

"'Orthopedically handicapped children' shall mean those whose locomotion, mobility, or use of limbs is impaired by crippling by (a) congenital anomaly, (b) birth injury, (c) trauma, (d) tumor, (e) infection, (f) disease, or (g) other conditions such as fragile bones or cardiac impairment." **(RSN 43-604) (L)**

"'Learning disabled children' shall mean those children who manifest significant educational discrepancy between their estimated intellectual potential and their actual level of performance in one or more of the processes of language, perception, reading, spelling, arithmetic, or writing, which may or may not be accompanied by demonstrable central nervous system dysfunctions or behavioral disturbances. Such terms shall not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps of mental retardation, emotional disturbance, environmental, or other problems otherwise provided for in this section."

When services are provided by a local school board in day schools for the deaf, a deaf child shall be defined as "any person of sound mind who by reason of defective hearing cannot profitably be educated in the public schools as other children are." **(RSN 79-1414) (L)**

" 'Speech handicapped' shall mean those persons whose speech or language deviates so far from other people in the group that it calls attention to itself, interferes with communication, or causes its possessor to be maladjusted." **(R)**

" 'Acoustically handicapped' shall mean those persons in whom the sense of hearing is impaired to the extent that language, social, and/or academic development is restricted to an educationally significant degree." **(R)**

Age of Eligibility: Handicapped children are eligible for services between the ages of five and 21.

Certain multihandicapped persons are eligible for services between the ages of birth through 21.

In the case of deaf-blind children, the age of eligibility may be extended past age 21 for "such meritorious deaf and visually handicapped pupils recommended by the commissioner of education, principal, or chief officer of the school which they attend." **(RSN 43-601) (L)**

NRS 388.440-388.540 defines a physically or mentally handicapped child. These children are eligible for special education (see **Right to Education**). The condition is considered a medical handicap. Minors confined to detention centers are not considered as physically or mentally handicapped because they are not there for a medical reason. They are not eligible for special education funding. **(Op. Att'y. Gen., October 26, 1960)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: Within 10 days prior to the annual district meeting or school election, the secretary of the school board shall conduct a census of the district, including a list in writing of the names of all children under 21 years of age and the names of all tax payers. The listing of children shall separately identify the mentally and physically handicapped. A classification of mentally handicapped may be made only by a licensed psychologist or practitioner of medicine and surgery. A copy of the list shall be forwarded to the county superintendent.

The board of education of a Class IV school district may establish a permanent and continuing census of school children. In a class IV school district, the list of all children and taxpayers does not have to be reported to the county superintendent, but the names of all children under 21 years of age must be kept in a depository maintained by the school district, subject to inspection at all times. Names of all taxpayers do not have to be included. **(RSN 79-458) (L)**

All school census enumerators shall register the name, age, sex, nationality, and residence of parent or guardian as well as a brief statement of the physical condition of all crippled children from birth to age 21. These shall be recorded by the county superintendent of schools who then reports to the commissioner of education. The commissioner, after tabulating the results of the whole state, forwards a copy of the census to the department of public welfare or any other state commission, board, or division having supervision of crippled children. At the discretion of the commissioner, a copy of the census may be furnished upon request to any voluntary state organization doing work for crippled children. **(RSN 71-14-16) (L)**

In order to assist the state department of education to assess the needs for special education programs and establish such programs, each educational service unit, county superintendent, and each local or regional office of mental retardation must report by February, 1974 on appropriate forms all children receiving services from each agency. **(L)**

All county superintendents must annually report by July 15 to the superintendent of the school for deaf and school for the blind, all deaf and blind children residing in their districts. **(RSN 79-318) (L)**

Assessment and Placement: Superintendents, principals, teachers, members of the board of education and board of trustees, or a parent or guardian of a handicapped child may apply to the superintendent of schools, if the child resides in a high school district, or to the county superintendent of schools, otherwise, for an application for special instruction. **(RSN 43-603) (L)**

The state department of education will pay a specific amount per test for each approved individual psychological evaluation or for each speech and/or hearing evaluation administered by approved examiners other than those regularly employed by the school district and receiving reimbursement from the department. This is determined through an initial screening procedure prior to the administration of the evaluations. Payment for evaluations will be made only for those children recommended for special education. One copy of each individual psychological evaluation report or speech and/or hearing evaluation report must be on file in the special education section before reimbursement is made to the school district.

The school psychologist is responsible for coordinating and administering the selection, evaluation, and interpretation of test results of students and for making placement recommendations and counseling school personnel and parents. The school psychometrist is responsible for administering to individual children the psychometric techniques selected by a school psychologist. **(R)**

Children shall be considered for inclusion in the speech program upon the evaluation and written recommendations of a qualified speech clinician or pathologist.

The state department may assist school officials in determining eligibility of children for this program. Individual psychological evaluations may be required to assist in planning the educational and/or therapy program. **(R)**

Children shall be considered for inclusion in the program for the hearing impaired upon an evaluation and written recommendation of a qualified otologist, a qualified audiologist, and a qualified psychologist.

The state department of education may assist school officials in determining the eligibility of children for this program. **(R)**

BEST COPY AVAILABLE

The parent or guardian of any child who believes the child is in an inappropriate program may file a written appeal to the state department of education. The state department shall review the facts in all cases and determine whether the child is in an appropriate program. If the department determines that the program is inappropriate, it shall then assist the school district in making an appropriate placement. If the state department determines that the child is in an appropriate program, it shall notify in writing the parent or guardian of their finding and the basis for it. **(RSN 79-444) (L)**

Whenever a child is forced to temporarily leave his school district of residence to receive special education or treatment, and resides in a residential facility, boarding home, or foster home for the duration of his special education or treatment, the parent or guardian of the child shall provide for the cost of residential care, but no parent or guardian shall be required to pay the cost of residential care if the parent or guardian has filed an affidavit or other satisfactory evidence with the state board of education showing that he is not possessed of an estate or income sufficient to pay for the residential care without depriving himself or others dependent upon him of reasonable support and maintenance. **(RSN 43-626) (L)**

Whenever a parent or guardian has provided the satisfactory evidence as described above, the state shall provide payment for the reasonable cost of residential care as long as the special education or treatment is provided within the state and within a program approved by the state department of education. These provisions do not apply to children enrolled in the Nebraska School for the Deaf or the Nebraska School for the Visually Handicapped, or the Nebraska School for Trainable Children. **(RSN 43-627) (L)**

The state department of education is responsible for adopting appropriate regulations to implement the above provisions. These regulations must be consistent with those adopted by the department of public institutions under Sec. 83-371. **(RSN 43-627) (L)**

ADMINISTRATIVE RESPONSIBILITY

The state department of education shall have the general control of all educational programs for acoustically handicapped persons including programs at the Nebraska School for the Deaf. **(RSN 79-1901) (L)**

The director of public welfare, on behalf of physically and mentally handicapped children, is responsible for obtaining admission to state schools and other suitable schools, hospitals, and other institutions. The director may provide for care in their own homes, or in free boarding homes and for medical supervision, including for any crippled children in need, necessary medical or surgical care in a suitable hospital, sanatorium, preventorium, or any other institution or in his own home. The director may pay for such care from public funds, if necessary. **(RSN 43-507) (L)**

"If a delinquent, defective, or physically handicapped" child is released from a state institution, the director of public welfare is responsible for ascertaining the conditions of the home and the character and habits of the parents of the child and making any recommendations as to the advisability of returning the child home. **(RSN 43-508) (L)**

All special education programs must be reviewed at least biennially by the state department of education. **(RSN 43-609) (L)**

To enable the state department of education to determine the effectiveness of the programs and services being provided, the department shall conduct a continuing evaluation of the different types of programs and services provided. In conducting these evaluations, the department shall take into account such factors as numbers and types of students, class sizes, qualifications of staff, and other factors which the department deems appropriate. An evaluation of all programs and services must be made and these evaluations must be conducted in a manner to compare the relative effectiveness of the same or similar programs or services provided in different locations.

Evaluation studies shall be designed to provide the legislature, state department of education, school districts, and other servicing agencies with the following information:

1. a detailed description of groups served;
2. a detailed description of the kinds of programs or services provided and their cost per unit of service, as well as the cost of each service; and
3. a detailed description of the effectiveness of the program or service. **(RSN 43-609) (L)**

No special education program may receive reimbursement unless the program meets state department of education standards. However, temporary approval for a one-year period may be given if standards have not been met. No temporary approval may be given after the third year of operation of any special education program or after October 1, 1976. **(RSN 43-609) (L)**

If it is found that a child "is incapable of receiving an education in the public schools in this State due to his handicap, the Superintendent of Public Instruction is authorized, if there is sufficient money in the appropriation, to make the needful contracts and agreements for his support while attending a school outside the State equipped to teach persons with such a handicap." Eligibility is a question of fact which has to be determined in each particular case. **(Op. Att'y. Gen., February 22, 1951)**

RIGHT TO AN EDUCATION

PLANNING

In order to assist school districts in determining the needs for special education programs in their districts, and the establishment of needed programs, all school boards within the state are directed to report by February 1, 1974, on forms provided by the state department of education, the names of all children with their district who would profit from special education programs together with a plan for providing special education programs for the school years 1973-74 and 1974-75 and budget figures for these programs. The plan and budget form must conform to state department guidelines as set forth in this act. The identification of children, special education program plans, and budget requests must be amended annually by August 1 so that there is always on file in the state department of education a two year projected plan, number of children identified, and budget requests. The state department shall review the plan of the districts and the budget requests. Any program that provides for the residential care of children should show the costs of such care separately from the education program.

Each plan for the provision of special education programs must include the following:

1. a description of the types of services to be offered and the number of children receiving the services;
2. the servicing agencies and the services provided by each;
3. a five-year projection of needs for each service group commencing with the fiscal year for which the plan is adopted. This projection must include a priority listing of the resources required to meet the needs of each service group and the estimated cost of developing and acquiring these resources;
4. a detailed presentation of all expected expenditures by sources of funds;
5. a detailed description of the methodology to be used by the agency for evaluating the results of the programs and services being provided for each service group. This methodology shall permit program evaluation including the relative cost and effectiveness of alternative forms and patterns of services, and
6. a description of the procedures used to insure that students are placed in appropriate educational programs. These procedures must be approved by the state department of education. **(LB403, 1973) (L)**

The Nebraska Coordinating Council for the Handicapped is responsible for coordinating all programs for the handicapped, including children, from birth. The council shall maintain a directory of services available for the handicapped in the state, distribute information to parents, doctors, and other persons concerning such services, initiate coordinated planning by and between the agencies and departments of the state, private associations and organizations, and corporations for the handicapped, maintain records and information concerning handicapping conditions and the handicapped in the state, and make recommendations to the public and private agencies working with the handicapped concerning needs for additional services or areas in which coordination of services may benefit the handicapped. The following shall be voting members of the council:

1. from the department of public welfare, the director of social services or his designated representative; the director of medical services or his designated representative, and the director of crippled children's services or his designated representative;
2. from the department of public institutions, the director of medical services or his designated representative; the director of mental retardation or his designated representative; the director of rehabilitative services for the visually impaired or his designated representative; and the director of Beatrice State Home or his designated representative;
3. from the department of education, the director of special education or his designated representative; the director of vocational rehabilitation or his designated representative; the superintendent of the Nebraska School for the Deaf or his designated representative, the superintendent of the Nebraska School for the Visually Impaired or his designated representative, and the administrator of the Nebraska School for Trainable Children, and
4. from the department of health, the director of maternal and child health or his designated representative.

The council may appoint ex-officio nonvoting members to represent private associations, organizations, or corporations for the handicapped.

The members shall annually elect from its own members a chairman and vice chairman.

By November 30th annually the council shall make a written report of its activities, studies, and proposals to the governor. Copies must be distributed to each of the agencies and organizations with membership on the council and proper committees of the legislature. Each state agency represented on the council is authorized to furnish to the council such information, data, statistics, and reports as requested that is not confidential in nature. Such information must be furnished within six months of the request.

The council shall meet initially within 90 days of the passage of the act and bimonthly thereafter. The chairman may call special meetings. A quorum consists of seven members and the chairman. The chairman votes only in cases of a tie. At its first meeting the council shall adopt its rules of procedures and may adopt such bylaws and rules and regulations as it deems appropriate. Members are only reimbursed for their actual and necessary travel expenses.

For administrative purposes the council shall be placed within the state office of planning and programming as a separate program. Office facilities, equipment, and supplies may be made available to the council by the state agencies represented on the council. The state department of education shall develop the rules and regulations necessary to implement the council. **(RSN 79-444) (L)**

Each school district shall pay an amount equal to the average per pupil cost of the preceding year to the agency providing the educational program for every child who is a resident of the district and attending an educational program outside the school district, including programs operated by the state department of education, the department of public institutions, and any other servicing agency whose cooperation is approved by the state department of education.

Effective July 1, 1974, the state department of education shall reimburse each school district for ninety percent of the excess cost of the special education program. The payments shall be made by the state department of education to the resident school district in four approximately equal payments, on September 30, December 30, March 30, and June 30. (L)

NRS 435.010-435.030 provides for the maintenance and education of any handicapped child needing institutional care only if the parents are unable to pay.
(Op. Att'y. Gen., February 3, 1960)

NRS 43-609 grants $300 in state aid for each educable mentally retarded. This amount cannot be "exceeded by computing the distribution on a unit basis."
(Op. Att'y. Gen., June 7, 1972)

Section 4 of L.B. 690 of 1972 Session of the Nebraska Legislature, amended NRS 43-607 to authorize the payment of money to parents who transported their handicapped child. Section 8 of the bill says that the distance traveled must be at least four miles one way. Both of these sections are construed together so that in order for the transportation reimbursement to parents, the distance traveled must be at least four miles one way. (Op. Atty. Gen., August 21, 1972)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The board of each educational service unit in cooperation with local boards of education is responsible for providing within each geographical area, supplementary services such as guidance and counseling, remedial instruction, special education, and instructional materials services. The boards are also responsible for planning and coordinating services within their own geographical area whenever services are offered on a cooperative basis between local school districts and for contracting for educational services with the board of any other educational service unit, any other educational agency, or with any other appropriate state or federal agency or office. (L)

The county superintendent of schools may use high school tuition money to provide educational opportunities for handicapped students residing in districts not maintaining a high school. (L)

The board of regents of the University of Nebraska may cooperate with public or private agencies engaged in the care and rehabilitation of any handicapped children to make available an interchange of facilities and treatment services under terms agreed upon by the board of regents or their agencies, designating the use of any such land. (L)

FINANCE

For the period ending June 30, 1974, the school board in a school district in which handicapped children reside must include in its annual budget a sum for each handicapped child at least equal to the regular per pupil cost in the schools of the district. When an amount equal to the regular per pupil cost has been expended for the education and therapy of handicapped children, the school district qualifies for state aid for the handicapped if the education and therapy has been secured within the state. After approval by the commissioner of education, the state aid is provided to the servicing school district, educational service unit, state school, or public agency for education of physically handicapped, educable mentally handicapped, and emotionally disturbed children for the actual excess costs but not exceeding the following amounts:

1. physically handicapped children—$600 per pupil;
2. educable mentally handicapped—$300 per pupil; and
3. emotionally disturbed children—$600 per pupil.

In no instance shall the total amount of state aid the districts share exceed the actual per pupil cost of a special education program for the servicing district or $4,500 per teacher or therapist holding a valid prestandard or provisional certificate or $5,000 per teacher or therapist holding a valid standard certificate, or $6,000 per teacher or therapist holding a valid professional certificate, whichever is the lesser. **(RSN 43-609) (L)**

Unless parents are unable to pay for clothing and transportation, parents of children attending the school for the deaf or the school for the visually impaired will assume these costs. If the parents are unable to pay, these costs will be paid for from the county general fund of the child's district of residence. **(RSN 79-1909 and 79-2007) (L)**

The state board of education is authorized to adopt, on behalf of the state school for the visually handicapped, the school for the deaf, and on behalf of any school for mentally retarded children exclusively owned by the state and under control and supervision of the state, donations of real property or bequests for other property or both, if in its judgment, any such device, donation, or bequest is for the best interest of any school or attending students. **(RSN 79-328) (L)**

Sufficient funds shall be appropriated by the Legislature to carry out the provisions of section 43-601 and sections 43-604 to 43-616.01, such funds to be channeled through the state department of education and the department shall be authorized to expend such funds upon proper vouchers approved by the department and warrants issued by the director of administrative services for: (1) financial reimbursement to local school districts, educational service units, agencies, and parents or guardians, including full reimbursement for the amount expended pursuant to sections 43-607 and 43-616.01 for actual transportation expenses per year not to exceed $400 for handicapped and trainable mentally retarded children, and (2) instructional aids and consultative, supervisory, research and testing services to local school districts, and (3) salaries, wages, maintenance, supplies, travel, and other expenses essential to carrying out the provisions for special education. **(RSN 43-611) (L)**

The expenses of the program for the multihandicapped established by the provisions of sections 43-629 to 43-632 shall be paid by the state, but the parents or guardians of multihandicapped children who are able wholly or partly to provide for their support and care, to the extent of their ability, shall be required to make payment for diagnosis of the children's disabilities and needs and for medical treatment received under the program. **(H.B. 403, 1973) (L)**

In accordance with Nebraska Law 43-609, excess cost reimbursement for handicapped children may not be made until "an amount equal to the regular per pupil cost has been spent." Nebraska Law 43-609 further states that excess cost reimbursement shall not exceed $4,500 per clinician holding a valid Nebraska prestandard or provisional certificate, or $5,000 per clinician holding a valid Nebraska standard certificate, or $6,000 per clinician holding a valid Nebraska professional certificate. A unit shall be established on the basis of a minimum of eight acoustically handicapped children with one approved teacher or approved clinician. If the number of children is insufficient to compose a unit, payment shall be made for an approved program on an annual basis not to exceed $600 for each acoustically handicapped child. **(L)**

Nebraska Law 43-611 provides that funds may be expended for "testing services to local school districts." The state department of education shall reimburse a specific amount for approved hearing evaluations when they are administered by approved examiners. The local school shall absorb any other expenses such as mileage and maintenance incurred by the consulting examiner. **(L)**

Claim forms shall be mailed by the state department of education by March 15 to all Nebraska school districts in which programs for acoustically handicapped children have been approved. These districts shall list their "excess cost" on these claim forms. The required "regular per pupil cost" will be computed on the basis of average daily attendance for the previous school year. Completed claim forms shall be returned to the state department of education by May 15. Reimbursement for claims received after June 5 cannot be assured. **(L)**

Nebraska Law 33-609 states that the unit excess cost reimbursement shall not exceed $4,500 per clinician holding a valid Nebraska prestandard or provisional certificate, or $5,000 per clinician holding a valid Nebraska standard certificate, or $6,000 per clinician working full time with speech handicapped children. If the number of children is insufficient to comprise a unit, payment shall be made on a prorated basis as determined by the state department of education. **(L)**

Any deviations from these criteria or qualifications, other than statutory requirements, must be approved by the state department of education. **(L)**

All special education programs financed in whole or in part by state or federal funds issued through the state department of education shall comply with these criteria and qualifications. **(L)**

The state department of education shall also review the budget request and approve a budget for the special education programs. If a servicing agency chooses to exceed the budget approved by the state department of education, costs in excess of the approved budget shall not be reimbursed by the state department of education.

Excess cost means the difference between the total cost of the special education program excluding residential care and the number of students in the special education program multiplied by the average per pupil cost of the resident school district of each child for the preceding year. Average per pupil cost shall mean the amount computed by dividing the total current operating expenditure excluding special education expenditures, by the average daily membership.

PERSONNEL

SERVICES

Boards of education shall furnish one of the following types of education to resident handicapped children:

1. They may pay the per pupil cost of programs in any other district or educational service unit and provide for transportation expenses. Parents may be reimbursed for transportation expenses up to $400 per year. If a parent has more than one handicapped child enrolled in a program at the same location, the aggregate amount of payments may not exceed $400.
2. They may provide for transportation expenses within the school district for deaf, visually handicapped, orthopedically handicapped, trainable mentally retarded, seriously emotionally disturbed, specific learning disability, or other handicapped children enrolled in a special program in the district, and for whom transportation is required. A parent or guardian transporting a child is paid for each day for attendance $.40 per mile between the residence and the school, but not exceeding $400 per year. If the parent or guardian has more than one child enrolled in a program at the same location, the aggregate amount will not exceed $400.
3. Districts might also provide for transporting children enrolled in the Nebraska School for the Deaf or the School for the Visually Handicapped by reimbursing parents or guardian for expenses. This reimbursement is paid at the rate of $.40 per mile for the distance between the place of residence and the state operated school. The payment to the parent or guardian shall be limited to an amount determined by no more than five trips per year and not to exceed $400 per year. Payment to the parent or guardian of a deaf or visually handicapped child transporting the child daily is limited to the number of days of attendance. Any parent or guardian having more than one deaf or visually handicapped child shall be limited to an aggregate amount not exceeding payment based upon the transportation of one child enrolled in the state operated school for the deaf and visually handicapped the greatest distance from his place of residence but not exceeding $400 per year.
4. Visiting teachers for the homebound.
5. Correspondence instruction approved by the commissioner.
6. Any other method of instruction approved by the commissioner. **(RSN 43-607) (L)**

At state expense, a program for the care of deaf-blind and other severely multihandicapped children is established. Liable expenses under this program, include the mother-teachers, and maintenance of the mother-teachers and any deaf-blind or other severely multi-handicapped children. These children may be sent to any school or institution in the U.S. maintaining an accredited school or department for those children. Pupils receiving services under this program cannot be withdrawn from the program without the consent of the commissioner or state board of education. **(RSN 43-626) (L)**

Nothing prevents any administrative unit from utilizing their own funds to establish pre-kindergarten programs. **(RSN 79-444) (L)**

Local boards, with department approval, may establish special schools to instruct children who cannot profitably or properly be cared for in regular schools. School age children who are habitually truant or incorrigible or whose conduct and habits are such that they cannot with profit to themselves or in justice to the school be retained or instructed in the usual schools, may, upon complaint of: 1) the person having legal or actual control of the child; 2) the principal or head of the school that the child is attending; or 3) the attendance officer, be required to attend a special school until their habits and conduct allow them to be received in the usual schools. These schools must be as good in conveniences, equipment, and conditions of health as other schools in the district, and the teachers must be prepared by training and experience to instruct such children. **(RSN 79-212) (L)**

In programs designed primarily for language/speech training each child shall receive at least two, preferably three, therapy periods a week, and each shall be a minimum of 25 minutes in duration. In such programs the clinician or teacher shall have an active caseload not to exceed 30.

In academically oriented programs for the acoustically handicapped, the maximum caseload shall not exceed 12 students per clinician.

Each child shall have an audiometric re-evaluation each year. In addition, each child shall receive, on a periodic basis not to exceed three years, an otological and/or audiological re-evaluation by qualified examiners. **(R)**

Class Size:	NUMBER OF PUPILS	
	Minimum	**Maximum**
AURALLY HANDICAPPED		
Language/Speech Training (caseload)	--	30
Academically Oriented Special Class	--	12
DEAF		
Language/Speech Training (caseload)	--	30
Academically Oriented Special Class	--	12
SPEECH HANDICAPPED		
Speech Therapist (caseload)	--	75
EDUCABLE MENTALLY HANDICAPPED		
Elementary or Secondary Special Class (general)	--	30
Special Class - Elementary level (with grouping)	--	15
Special Class - Elementary level(without grouping)	--	12
TRAINABLE MENTALLY HANDICAPPED		
Teacher aide	--	10*
Special Class (age range six years or greater)	5	6
Special Class (age range less than six years)	5	10
PHYSICALLY HANDICAPPED		
Homebound Instruction or Therapy (caseload)	8	--

* Each qualified teacher will be responsible for supervising no more than five teacher aides.

Transportation may be provided to a residential school, a program in another school district, or in the district of residence.

There is established a program for the educational, social, and medical requirements of multi-handicapped children who are state residents and for whom there are no other suitable existing services and facilities in the state. This program shall be administered by the University of Nebraska Medical Center in cooperation with the institutions of higher education and elementary and secondary schools in the state and the state department of education. The program hereby established shall include (1) diagnosis and evaluation of the child's disabilities and needs, medically and educationally, (2) the development of a plan for the medical treatment and management necessary to relieve as many of the physical and mental problems as possible, (3) the development of an educational plan, and (4) coordination of supportive services at the local level.

PRIVATE

The board shall, upon the written request of the parents or guardian, send such children as it considers proper subjects for education, to any institution in the U.S. selected by the board, now or hereafter recognized and accepted as maintaining an accredited or approved school or department to give instruction to such children; upon like request, and with like approval, the board shall continue for a longer term instruction of such meritorious pupils recommended by the commissioner of education, principal, or chief officer of the school which they attend. No such pupil shall be withdrawn from such school except with the consent of the commissioner or of the state board of education, in the event such pupils shall be sent, to such a school, and the expenses of the instruction and support of such pupils therein, including their necessary traveling expenses, whether daily or otherwise, but not exceeding ordinary and reasonable compensation therefor, shall be paid by the State of Nebraska. **(RSN 43-601) (L)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Prestandard Teaching Certificate (Certificate No. 4)

valid grades K - 12, bachelor's degree in approved program, institutional recommendation, course work in preceding three years (6)

Eligibility for Special Services Certificate (Certificate No. 7)

completion of preparation program in area, orientation to the performance of the service in schools to appropriate degree.

Eligibility for Special Education Certificate

valid Certificate No. 4 or Certificate No. 7 with endorsement, specialization (varies)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

NEVADA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school district at least six months in every year . . . ." **(Art. XI, Sec. 2, Nev. Const.) (L)**

Compulsory Attendance Law: All children between the ages of seven and 18 must attend school, but such attendance will be excused when satisfactory evidence is presented (to the board of school trustees of the school district in which a child resides) that the child's bodily or mental condition or attitude is such to prevent or render inadvisable the child's attendance at the school or application to study. A certificate in writing from any reputable physician filed with the board stating that the child is unable to attend school or his attendance is inadvisable must be taken as satisfactory evidence by the board. **(NRS Sec. 392.050) (L)**

No minor shall be required to take advantage of the special provisions for the education of handicapped minors if the parent or guardian of the minor files a statement with the board of trustees of the school district showing that the minor is receiving adequate educational advantages. **(NRS Sec. 392.059) (L)**

Responsibilities: The board of trustees of a school district shall make the special provisions necessary for the education of handicapped minors. **(NRS Sec. 388.450) (L)**

Any school district furnishing education to physically or mentally handicapped children shall furnish such education to any resident handicapped minor of the school district. **(NRS Sec. 388.480) (L)**

See Administrative Responsibility.

The State of Nevada provides for the education of deaf children and the Legislature makes appropriations for their education in schools. Since no school for the deaf existed in the State, two deaf children under the age of six were entitled to be educated at Nevada's expense in a special school in another State provided money was available in the appropriation made by the Legislature for that purpose.
(Op. Att'y. Gen., January 25, 1938)

In *Brandt v. Nevada*, 11 physically or mentally handicapped children representing the class of all such persons, ages three to 21 in Nevada, are the plaintiffs. The defendants include the state, its board of education and department of education, the state superintendent of public instruction, and the Boards of Trustees of Nevada's school districts. Plaintiffs allege that they and their class have been denied education equal to that provided to nonhandicapped children and some handicapped children. It is also alleged that exclusion procedures are arbitrary and violate due process requirements of the 14th amendment. It is requested that a three-judge court be convened to declare Nevada's exclusionary statutes unconstitutional, especially those citing geography or numbers. Also sought is reversal of the statute denying education to handicapped children in excess of 2½ percent of the total population. The case, filed December 22, 1972, is still pending. Although recent legislation eliminated the 2½ percent exclusion, the limit still exists. (lawsuit)

POPULATION

Definitions: " 'Handicapped minor' means any person under the age of 18 who deviates either educationally, academically, physically, socially or emotionally so markedly from normal growth and development patterns that he cannot progress effectively in a regular school program and therefore needs special instruction or special services." **(NRS 388.440) (L)**

"The aurally handicapped are those students who, as a result of hearing impairment, require the services of special classes or programs in order to effectively promote their educational growth and development." **(R)**

"Only those students with a hearing loss of 80 decibels or more in the speech frequencies, as determined by an individual examination conducted by a certified audiologist or licensed physician who specializes in the area of hearing problems, are to be eligible for the program for the deaf." **(R)**

"Only those students with a hearing loss between 25 decibels and 80 decibels in the speech frequencies, as determined by an individual examination conducted by a certified audiologist or licensed physician who specializes in the area of hearing problems, are to be eligible for the program for the hard of hearing." **(R)**

"Children with learning disabilities exhibit a disorder in one or more of the basic psychological processes of central-motor, central-perceptual, central-cognitive, and/or spoken or written language. These disorders may be manifested in the areas of listening, thinking, talking, reading, writing, spelling, or arithmetic. They shall demonstrate involvement in three of the five following areas: (1) marked discrepancies between intellectual achievement potential and achievement level; (2) perceptual motor impairment (auditory, visual, haptic), (3) general orientation defects (Space, time, body image); (4) disorders of speech and language; and (5) developmental disparity in processes related to education (auditory, visual, haptic)." **(R)**

"The speech handicapped are those individuals whose speech deviates so far from the norm that it calls attention to itself, interferes with effective communication, or causes the individual to be conscious of his impairment." **(R)**

"The educationally handicapped are those students who, as result of emotional disturbances and/or learning disabilities, require a differentiated education program in order to make constructive use of their school experience." **(R)**

"Multiple handicapped are those children who exhibit two or more of the previously identified handicapping conditions." **(R)**

Age of Eligibility: Handicapped children may be admitted into special programs at the age of five; their attendance will be counted for apportionment purposes, however, aurally handicapped children may be admitted at any age to special programs and their attendance may be counted for apportionment purposes. **(NRS Sec. 388.490) (L)**

NRS 388.440 - 388.540 define the type of handicapped person eligible for educational services. The definition includes all handicapped children, regardless of intelligence. Classifying children as "educable" and "trainable" based on I.Q. scores may be of benefit to the schools for programming purposes, but it cannot be used to decide who is eligible for educational services. If an examination shows that a child under 21 can benefit in any way and to any extent from education, the child is eligible for educational services. If an examination shows that a child under 21 can benefit in any way and to any extent from education, the child is eligible for benefits. **(Ops. Att'y. Gen., September 28, 1958 and February 3, 1960)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Screening: All teachers in the public schools shall observe and inspect, separately and carefully, every child under their care for evidence and or symptoms of visual or physical defects. In cases where defects are believed to exist, the teacher should notify the parents of the child regarding the probability of their existence and recommend that proper medical and dental attention be secured for the child. In school districts in which state, county, or district public health services are available or conveniently attainable, these services will be utilized to meet the responsibility assigned to teachers. If such services are not available, the board of trustees or the board of education of the local district may employ qualified personnel to do the same. **(NRS Sec. 392.450) (L)**

Assessment and Placement: Before any child is placed in a special program for handicapped children, a consultation must be held with his parents or guardian, and an examination must be conducted for the purpose of finding the extent to which the child deviates from normal growth and development patterns. Such examination must be conducted in accordance with standards prescribed by the state department of education. A psychiatrist may be consulted in any specific case when the board of trustees of a school district deems it necessary. **(NRS Sec. 388.470) (L)**

Assessment and Placement: The board of trustees of each school shall establish the standards for eligibility for special education. These standards must adhere to the standards of the department of education. **(NRS Sec. 388.450) (L)**

Eligibility of speech handicapped children for speech therapy is to be determined by a qualified speech therapist through screening and testing procedures.

Eligibility for placement in a program for the educationally handicapped is determined according to the nature of the handicap. The performance on an individual adjustive psychological evaluation shall determine that the emotionally disturbed are those students with persistent maladjustive behavior. **(R)**

Handicapped children may be instructed in special ungraded schools or within special programs established for their instruction. **(NRS Sec. 388.500) (L)**

The school district shall annually send to the superintendent of public instruction names of all children instructed under this act. Included are those children who are receiving services under cooperative arrangements between the division of vocational rehabilitation and the department of education. **(NRS Sec. 388.540) (L)**

Before being placed in a class for aurally handicapped children, a child must be given a vision test, followed by a-psychological examination (if there is a question of learning disability). An audiological evaluation and medical examination by a physician must also be made. The child's language development must be evaluated. **(R)**

Each deaf and hard of hearing student should be periodically assessed (at least once a year) to determine his level of functioning and use as a basis for planning his program. **(R)**

To be eligible for placement in a multiple handicapped program, the child must meet the previously stated criteria in two or more of the specific handicapping conditions. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The state department of education prescribes the minimum standards for special education for handicapped minors. No state funds will be granted to any school district until its program of instruction for handicapped children is approved by the state department of education. **(NRS Sec. 388.520) (L)**

Prescribed minimum standards must include standards for program of instruction or special services maintained for the purpose of serving minors who are aurally handicapped, visually handicapped, physically handicapped, speech handicapped, mentally handicapped, educationally handicapped (including appropriate subemphasis when related to learning disabilities or emotional disturbance), multiple handicapped (including appropriate subemphasis for each of the handicapping conditions) or academically talented. **(R)**

School districts will accomplish the objectives of special education for handicapped minors in three distinct steps:

1. Initiate ways of becoming aware that a resident child is not progressing effectively in his program schedules, be responsive when a parent or other knowledgeable person calls attention to a similar awareness, and conduct an individual examination of the child to determine whether or not he needs special instruction or services.
2. Establish and operate special education program units as deemed necessary for their handicapped minors.
3. Assign each handicapped minor to an individual program schedule that promises his effective progress through an education career. The individual schedule may include assignment, at different times, to more than one special program as well as to a regular graded program.

Through these processes, there will be extensive flexibility for the district to offer full opportunity for every child to receive educational benefit.

Identity of the different categories of handicapped enrollees will be revealed in enrollment reports, while the identity of program time will be revealed in a single report of program operation.

Previous examination results and other file data of pupils heretofore identified as handicapped pupils, if in substantial compliance with the values expressed in the proposed standards, are sufficient for such pupils to continue to be placed in special programs for handicapped minors, and to be counted as handicapped minors.

Special programs now operating and serving handicapped enrolees, if in substantial compliance with values expressed in the proposed standards of instruction, may be initially reported as special program units for handicapped minors.

For full counting for apportionment purposes, the unit must have operated during the full school days of at least nine of the school months. Programs that operate less than full school days or less than nine school months will be prorated for apportionment purposes.

A report form will be completed for each category of program units established. A monthly report of the program days such programs operated during the school month will be submitted to the department of education.

Details of where each program operates, its staffing, and scheduling, will be maintained at the school district office. Department staff will make on-site monitoring visits whether or not reported programs are meeting prescribed standards. **(R)**

Sections 281(1) and 286(2) of Chapter 32 of the Statutes of Nevada, 1956 authroize the "boards of school trustees in either county or joint districts to provide for facilities to educate mentally handicapped children residing within any such district."
(Op. Att'y. Gen., September 17, 1956)

If a child's parents are unable to pay for institutional training and education of a handicapped child, then public assistance is required for the care of the child at a suitable institution selected by the County Commissioners. **(Op. Att'y. Gen., February 3, 1960)**

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

The legislature declares that the proper objective of state financial aid to public education is to insure each Nevada child a reasonably equal educational opportunity. Recognizing wide local variations in wealth and costs per pupil, the state should supplement local financial ability to whatever extent necessary in each school district to provide programs of instruction in both compulsory and elective subjects that offer full opportunity for every Nevada child to receive the benefit of the purposes for which public schools are maintained. Therefore the quintessence of the state's financial obligation for such programs can be expressed in a formula partially on a per pupil basis and partially on a per program basis, as: State financial aid equals school district basic support guarantee minus local available funds produced by mandatory taxes. This formula is designated the Nevada plan. **(NRS Sec. 387.121) (L)**

The legislature has declared that the statutory basic support guarantee established financial resources sufficient to insure a reasonably equal educational opportunity to handicapped minors residing in Nevada. **(NRS Sec. 388.450) (L)**

The state board of education shall apportion to each school district the sum of $500 for each handicapped child receiving services. **(NRS Sec. 387.125) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

It is not anticipated that local school districts would enter into co-operative agreements due to the geographical spread and marked population differences. If they choose to do so, however, they must meet all regular state special education standards.

SERVICES

Physically or mentally handicapped children may be instructed in special ungraded schools or classes for the instruction of handicapped children. **(NRS Sec. 388.500) (L)**

Transportation may be provided to pupils attending special schools or classes for the handicapped. **(NRS Sec. 388.510) (L)**

The superintendent of public instruction is authorized to make arrangements with any institution for the deaf, mute, or blind in any state for the admission, education, and care of such children or to provide for the support and care of any deaf, mute, or blind person in this state by placing such a person in a foster home or other residential facility in a county of this state having an educational program, if the home county of the deaf, mute or blind person does not have such a program. **(NRS Sec. 395.0110) (L)**

In order to be eligible for benefits under this act, a person must meet the following qualifications: mentally or physically capable of receiving education or instruction; free from offensive and contagious diseases; unable to pay for his support, education, and instruction at an institution for the deaf, mute, or blind; his parent, relative, guardian, or nearest friend is unable to pay for his support, education, and instruction in an institution for the deaf, mute, or blind, and must be a resident of the state. No persons over age 21 would be eligible under this section unless he has been a resident of the state for a period of five years preceding the date of application.

The parent, relative, guardian, or nearest friend of such a handicapped person may apply directly to the board of county commissioners for services under this act. Upon receipt of the application, the superintendent is instructed to make the necessary arrangements for the education and care of deaf, mute, or blind persons. Before any such person is placed in a home other than that of a relative, he must obtain a certificate of approval from the state welfare administrator. **(NRS Sec. 395.020, 395.030, 395.040) (L)**

Provision shall be made at state expense to transport the handicapped person to the institution, foster home, or residential facility. **(NRS Sec. 395.050) (L)**

A parent, relative, guardian, or nearest friend of a visually or aurally handicapped person who resides in the county school district having no provision for the education of such handicapped persons (and therefore, not qualified under the above section) may make direct application for educational benefits to the superintendent of public instruction. There is provision for the superintendent of public instruction to enter into a contract with the parent, relative, guardian, or nearest friend of aurally or visually handicapped persons to share the cost of providing for educational benefits. Such contracts shall have the following stipulations: the share of the cost for the education and support of such visually or aurally handicapped persons by the state shall not exceed that provided aurally or visually handicapped persons in the previously noted section, and there will be no cost to the state for medical expenses.

The superintendent's authority to enter into these contracts will be the same as his authority in Section 395.040. **(NRS Chap. 135, adding a new section to Chap. 395) (L)**

Transportation may be provided to pupils attending special schools or classes for the handicapped.

Transportation for orthopedically handicapped children is provided between the home and the school. **(R)**

School buses carrying orthopedically handicapped children must have elevators and special seating for comfort and safety (securing wheelchairs). **(R)**

Class Size:	NUMBER OF PUPILS	
	Minimum	**Maximum**
LEARNING DISABLED (Neurologically Handicapped)		
Special Class - Preschool	--	6
Special Class - Primary	--	6
Special Class - Elementary	--	8
Special Class - Intermediate	--	10
Special Class - Secondary	--	10
SPEECH HANDICAPPED		
Speech Therapist (caseload)	--	70
AURALLY HANDICAPPED		
Special Class - Preschool	--	5
Special Class - Primary	--	5
Special Class - Elementary	--	6
Special Class - Intermediate	--	8
Special Class - Secondary	--	8
Special Class - Elementary (two or more levels combined)	--	6
Special Class - Secondary (two or more levels combined)	--	8
DEAF		
Special Class - Preschool	--	5
Special Class - Primary	--	5
Special Class - Elementary	--	6
Special Class - Intermediate	--	8
Special Class - Elementary (two or more levels combined)	--	6
Special Class-Secondary (two or more levels combined)	--	8

EDUCABLE MENTALLY HANDICAPPED		
Special Class - Preschool	--	8
Special Class - Primary	--	10
Special Class - Elementary	--	12
Special Class - Intermediate	--	14
Special Class - Sr. High	--	14
Special Class - Elementary (two or more levels combined)	--	8
Special Class - Secondary (two or more levels combined)	--	10
TRAINABLE MENTALLY HANDICAPPED		
Special Class - Preschool	--	6
Special Class - Primary	--	8
Special Class - Elementary	--	8
Special Class - Intermediate	--	10
Special Class - Elementary (two or more levels combined)	--	8
Special Class - Secondary (two or more levels combined)	--	10
SPEECH HANDICAPPED		
Speech Therapist (caseload)	--	70
PHYSICALLY HANDICAPPED		
Home or Hospital Instruction (Caseload)	--	10
Special Class - Preschool	--	6
Special Class - Primary	--	6
Special Class - Elementary	--	8
Special Class - Intermediate	--	10
Special Class - Secondary	--	10
Special Class - Elementary (two or more levels combined)	--	6
Special Class - Secondary (two or more levels combined)	--	10
EMOTIONALLY DISTURBED		
Special Class - preschool	--	6
Special Class - Primary	--	6
Special Class - Elementary	--	8
Special Class - Intermediate	--	10
Special Class - Secondary	--	10
Special Class - Elementary (two or more levels combined)	--	8
Special Class - Secondary (two or more levels combined)	--	10

For all the above programs, maximum class size may be increased by not more than four pupils when a full-time teachers aide is employed to serve the program.

PRIVATE

Deaf, mute, aurally handicapped, blind, and visually handicapped children are eligible for private placement. **(R)**

Blind and deaf persons must be mentally and physically capable of receiving education or instruction; free of offensive and contagious diseases and unable to pay for support, education, and instruction in the school or institution; and must have been a state resident for five years. **(R)**

The parent, relative, guardian, or nearest friend must file an application with the board of county commissioners (for deaf or blind person) or with the state superintendent of public instruction (for visually handicapped and aurally handicapped persons). The state superintendent will make all further arrangements. **(R)**

For eligible deaf or blind persons, the state pays all expenses, including transportation. **(R)**

For visually or aurally handicapped persons, the state superintendent is authorized to enter into a contract with the handicapped person's parent, relative, guardian or nearest friend to share the cost of providing for educational benefits. The state's share of the cost in each case must not exceed the amount paid by the state to educate deaf and blind persons, and there must be no cost to the state for medical expenses. **(R)**

Placement in facilities both in and out of the state may be authorized. **(R)**

A school district may pay tuition to a private school for the education of handicapped children if the private school is approved by the State Board of Education. Attendance at the private school should be based (for reimbursement purposes) on average daily attendance as provided in NRS 388.530.

(Op. Att'y. Gen., September 26, 1968)

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Special Education Certification (Certificate No. 10)

valid for elementary or secondary schools: bachelor's degree in approved program or valid bachelor's degree, valid teaching endorsement, 2 years experience and specific preparation in speciality.

Eligible for Professional Endorsement in Special Education

master's degree and experience

FACILITIES

Boards of school trustees may purchase sites and erect buildings in the same manner as other school sites and school buildings. They may also rent suitable property at an economical rental, without being so directed by a vote of the district. Boards may also accept gifts or donations of sites and buildings for such purposes. **(NRS Sec. 388.500)(1)**

STATE PROFILE

NEW HAMPSHIRE

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "It shall be the duty of the legislature and magistrates in all future periods of this government, to cherish the interests of literature and the sciences, and all seminaries and public schools..." **(Art. 83, Pt. 2, N.H. Const.) (L)**

Compulsory Attendance Law: Each child between the ages of six and 16 will attend a public school within the district, public school outside the district to which he is assigned, or an approved private school during the school year unless he has been excused from attending such school, on the grounds that his physical or mental condition is such as to prevent his attendance or make it undesirable. **(NHRSA 193:1) (L)**

Policy: "It is hereby declared to be the policy of the state to provide the best and most effective education possible to all handicapped children in the state of New Hampshire." **(NHRSA 186-A:1) (L)**

Responsibilities: No public official, agent, or representative, in carrying out the special education provisions, is authorized to take charge of any child over the objection of the parents of the child or of persons standing in loco parentis to the child except by a proper court order. **(NHRSA 186-A:13) (L)**

All handicapped children capable of benefiting by instruction shall attend an approved school program. If a physically handicapped child over age 21 is capable of benefiting from instruction and applies for continued education services, the instruction may be continued until the physically handicapped child has acquired an education [illegible] **(NHRSA 186-A:6) (L)**

POPULATION

Definitions: " 'Physically handicapped' shall mean a child up to 21 years of age, married or unmarried, whose activity is or may become restricted by reason of a physical defect or infirmity, however caused, as to reduce his normal capacity for education or self support or both."

" 'Intellectually handicapped' shall mean a child up to 21 years, married or unmarried, whose activity is or may become so restricted by intellectual handicap, however caused, as to reduce his normal capacity for education or self support, or both."

" 'Emotionally handicapped' shall mean a child up to 21 years, married or unmarried, who by reason of internal emotional conflict, home conditions or general environment, has behavior and/or learning problems or is otherwise unable to make normal social or educational adjustment but who has sufficient intellectual and emotional capacity to be able with clinical diagnosis, proper treatment, training and remedial education, to become a responsible and self-supporting citizen."

" 'Handicapped child' shall mean any child who is handicapped by one or more of the above defined handicaps." **(NHRSA 186-A:2) (L)**

Children with learning disabilities are "children with one or more significant deficits in essential learning processes requiring remediation through special educational techniques. A child in this category generally demonstrates a discrepancy between expected and actual achievement in receptive or expressive language and/or spatial orientation. Learning disability is not primarily the result of sensory, motor, intellectual, or emotional handicaps, nor is it the result of the lack of opportunity to learn. However, learning disabled children are sometimes seen displaying the above handicaps in addition to their learning disability." **(R)**

Auditorily impaired children "miss certain sounds, must be spoken to quite loudly, and/or have a voice quality that suggests the presence of hearing loss. Or they may be deaf." **(R)**

Deaf children are those "with a hearing loss severe enough to seriously interfere even with amplification and special instruction training in the development of receptive or expressive language skills. Usually a child in this category has suffered the hearing loss before the development of spoken language." **(R)**

Hard of hearing children are those "with a hearing loss severe enough to seriously interfere without amplification and communication training in the development of receptive or expressive language skills. A child in this category may suffer a hearing loss before or after the development of spoken language." **(R)**

Children with speech disorders are "children with speech patterns that deviate so far from the speech of other children that it calls attention to them, interferes with communication, or causes its possessor to be maladjusted." **(R)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: School boards must report, by October 1 annually, to the state department of education, the number of handicapped children in their school districts. Later reports will be made when any other handicapped children are located within the districts. **(NHRSA 186-A:4) (L)**

Children in need of special education may be identified through a form which is sent to regular classroom teachers along with a cover letter requesting them to name children in their classes who might qualify. **(R)**

Children must be re-evaluated periodically by a qualified psychological examiner using accepted diagnostic procedures in education and psychology. In no case should a period of more than three years elapse between evaluations. **(R)**

The psycho-educational examination should be followed by a staff conference of professional personnel to determine eligibility, placement and programming for the child. **(R)**

An agreement accepting the placement of the child and defining the next period of review must be executed and signed by both local school officials and the parent.

The local school board is responsible for assigning a child to a school or program appropriate for the child's education. Most children are automatically assigned to the local school in their area.

A parent may send a child to whatever school he wishes, but unless the school board agrees, the parent will have to pay the tuition without financial help from the school.

The local school board must assign a child to an appropriate program.

The procedure for requesting special placement is as follows for the parent to:

1. Write to the local school board, stating child's name, age and disability, program desired, names of doctors who have examined the child and diagnosed his disability;
2. The local school board will determine placement; and
3. The parent may appeal placement, first to the local school board, and then to the state board of education.

ADMINISTRATIVE RESPONSIBILITY

The state board of education, acting through the commissioner of education, is responsible for preparing, developing, and administering plans to provide educational facilities for the handicapped. **(NHRSA 186:11) (L)**

The state board of education has the authority to establish a program of special education with appropriated or available funds and may appoint any necessary personnel to operate the program. **(NHRSA 186-A:3) (L)**

The state board of education is authorized to cooperate with the federal government or any government agency to develop plans for education of handicapped children and to receive and expend all funds made available to the state board of education from the federal government or its agencies. The school districts are authorized to receive and incorporate in their budgets and expend any such funds made available to them through the state board of education from the federal government or any of its agencies. **(NHRSA 186-A:10) (L)**

A school district shall establish programs for handicapped children, or shall pay tuition to an approved class or school maintained by another school district or by a private organization. Eligibility for this type of special education classes shall be determined by the school board under regulations promulgated by the state board of education. **(L)**

PLANNING

An approved plan for the education of handicapped children will be submitted by the state board of education to school districts. The school districts shall employ this plan to educate handicapped children capable of benefiting by instruction or training within the specific districts. **(L)**

FINANCE

The state board of education is authorized to pay to any school district or private organization operating an approved program a portion of the actual cost of the education of each resident child as long as the program meets the standards of the state board and funds are appropriated. **(NHRSA 186-A:11) (L)**

The expense incurred by the school board in administering the law in relation to the education of the handicapped are paid to the district from funds appropriated or made available to it. **(NHRSA 186-A:12) (L)**

Whenever any handicapped child shall attend, with the approval of the state board of education, any public or private school situated within or outside of this state, which offers special instruction for the training or education of handicapped children and which has been approved for such training by the state board of education, the school district where such handicapped child resides is hereby authorized and empowered and shall appropriate and pay a portion of the cost of such education in the manner and up to the amounts as provided by RSA 193:4 and 194:27 (state average tuition). **(L)**

A school district may pay tuition at a rate higher than the amount specified in RSA 193:4 and 194:27, when in the judgment of the school board the circumstances warrant it. **(L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If a school district does not establish approved classes or programs for handicapped children, it shall pay tuition for an approved program or class maintained by another district or by a private organization. **(L)**

If a handicapped child attends any public or private school or program inside or outside the state which offers approved instruction, the school district of residence may pay a portion of the cost in the manner and up to the amounts provided by law. The state board of education may assign pupils to approved schools for handicapped children. School districts may pay a higher rate of tuition than the specified amounts if, in the judgment of the school board, the circumstances warrant. **(L)**

There are a number of programs available for use by the regions.

1. The Consultant services program provides for the prevention, early identification, and intervention of actual or potential problems which may interfere with learning and adjustment. Psychologists, pupil personnel workers, nurses, and guidance counselors provide consultative services to parents, teacher and pupils before the problem becomes a major handicap.
2. In the Diagnostic Prescriptive services the child exhibiting a learning problem is referred to the diagnostic prescriptive teacher. He/she assesses the problem and prescribes a program including appropriate placement, materials to be used, and follow-up and supportive services.
3. In the itinerant services program, the itinerant specialists serves as a consultant to the regular classroom teacher and demonstrates appropriate materials and techniques for use with children having vision, speech, hearing and/or language handicaps.
4. The Cooperative services program allows the child to spend part of the day receiving special tutorial help in the resource room, and the remainder in the regular school program. If progress is not evident the child is referred back to the diagnostic prescriptive teacher for reevaluation.
5. Special class services means the special education classes in the public schools.
6. Non-public day classes and home/hospital teaching programs are available.
7. A residential program is also available.

(For programs 6 and 7, excess costs to the district will hopefully be provided by the state.)

SERVICES

The school board will furnish suitable transportation to all handicapped children able to be transported from their homes to the places where instruction or training is furnished. The responsibility of the school districts for transportation may not exceed, per pupil, an amount equal to the responsibility of the district for tuition as specified in **NHRSA 193:4. (L)**

If the cost of transportation constitutes an unreasonable expense, the school board, at the expense of the local district, may board the child near the place where the instruction or training is furnished and provide transportation from the place where the child is boarded to the place of instruction or training. If, in the judgment of the school board the circumstances warrant, the school district may pay for transportation at a higher per pupil rate than that specified. **(NHRSA 186-A:9) (L)**

The state board of education favors the placement of all deaf children in appropriate school or classes beginning at age four. Deaf children are placed in both public and private programs. Deaf children newly enrolled in programs must attend public day programs if they are within a reasonable commuting distance. **(R)**

The child must be able to be transported from home to the place of instruction or training. **(R)**

The school board will furnish suitable transportation to all handicapped children able to be transported from their home to the places where instruction or training is furnished. The responsibility of the school districts for transportation may not exceed, per pupil, an amount equal to the responsibility of the district for tuition.

If the cost of transportation constitutes an unreasonable expense, the school board, at the expense of the local district, may board the child near the place where the instruction or training is furnished and provide transportation from the place where the child is boarded to the place of instruction or training. If, in the judgment of the school board the circumstances warrant, the school district may pay for transportation at a higher per pupil rate than that specified. **(R)**

Where the cost of such transportation would constitute an unreasonable expense the school board shall, at the expense of the district, board the children near the place where such instruction or training is to be furnished and shall provide transportation from the place where the children are boarded to the place of instruction or training. A school district may pay for transportation at a rate per pupil higher than the amount of liability for tuition as specified by law, when in the judgment of the school board the circumstances warrant it. **(R)**

Parents may be reimbursed for transporting their own child to a special program. **(R)**

Special equipment for handling wheelchairs, special seats, and other special equipment shall be provided. **(R)**

Class Size:	NUMBER OF PUPILS	
	Minimum	Maximum
EDUCABLE MENTALLY HANDICAPPED		
Special Class	–	15[1]
Departmentalized Programs	–	30[2]
TRAINABLE MENTALLY HANDICAPPED		
Special Class	–	10
SPEECH HANDICAPPED		15
PHYSICALLY HANDICAPPED		
Special Class	–	15
EMOTIONALLY DISTRUBED		
Special Class	10	–
D Departmentalized Programs	–	10[3]
LEARNING DISABLED	–	15
VISUALLY HANDICAPPED	–	15
BLIND	–	15
AURALLY HANDICAPPED	–	15
DEAF		
Special Class	–	8

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[1] Age range not toexceed four years.

[2] No more than 15 pupils are assigned to one teacher at any given time except for music, gym, etc.

[3] Maximum with any one teacher at any one time except for gym, music, etc.

PRIVATE

Deaf, physically handicapped, emotionally handicapped, and intellectually handicapped children are eligible for private placement.

The district of residence must pay tuition up to the state average tuition, and in greater amounts if the local board sees fit.

The state pays a portion of the tuition cost if the program meets state board standards and funds are available.

Placements may be made in schools both in and out of New Hampshire.

The private school must be approved by the State board. **(R)**

The child's placement must be approved by the local school board, and the child assigned to that placement.

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary Certificate (Certificate No. 6)
bachelor's degree in elementary education

Eligibility for Secondary (Certificate No. 7)
bachelor's degree, secondary education (12), student teaching (6), major (30)

Eligibility for Special Education Certificate
bachelor's degree in special education, qualify for Certificate No. 6 or No. 7, endorsement or course work (varies)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

NORTH CAROLINA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The General Assembly, at its first session under this Constitution, shall provide for a general and uniform system of public schools, wherein tuition shall be free of charge to all children of the state between the ages of six and 21 years." **(Art. IX, Sec. 2, N.C. Const.)**

Compulsory Attendance Law: If any child is afflicted with mental, emotional, or physical incapacities which make it unlikely that the child could substantially profit by instruction in the public schools, the child need not be presented for enrollment, if evidence of medical, social, psychological, and education evaluation has been presented to the superintendent of the city or county schools showing that the child could not substantially profit by instruction in the public schools. **(Sec. 115-166 NCGS)**

Every deaf child and every blind child between the ages of six and 18 of sound mind who qualifies for admission into a state school for the deaf or the blind will attend a school that has an approved program for the deaf or the blind.

A comprehensive program for hearing impaired children of preschool age is provided in the public schools so that such preschool children may be taught and instructed during the critical learning years, and to provide likewise a comprehensive program in the public schools for this state for school age children who, while not deaf, have some degree of hearing impairment which calls for and lends itself to special instruction in the public schools implemented by trained teachers and special equipment. It is further the purpose of this Act to provide a system for the identification and professional evaluation of preschool children who have impaired hearing. **(HB 1139, Sec. 115-315.1)**

It is advantageous that hard-of-hearing children of school age be, as far as possible, educated in a normal public school environment in their home community and in the presence of children not handicapped by hearing impairment rather than in the isolation of special programs away from the home community and local environment. At the same time the General Assembly recognizes the continuing and strong need for the state's residential schools for the deaf and affirms continued support in schools. It is not the purpose of this act to duplicate in any manner the function of the residential schools for the deaf.

A blind child may attend a public school for not less than nine months each year. Parents, guardians, or persons having control of every blind or deaf child must send the child to some school for their instruction or to a public school. The superintendent of any school for the deaf or blind may exempt a child from attendance at any session or during any year and may discharge from his custody any blind or deaf child whenever such a discharge seems necessary. The exemption or discharge must be reviewed by the board of directors of the school if petitioned by a parent, guardian, or other person having control of the child. No board is required to review any exemption more than once during any calendar year. If a blind or deaf child at the age of 18 is still unable to become self-supporting because of his handicap, he may continue to attend the school until the age of 21 unless he becomes self-supporting prior to that period.

Parents, guardians, or other persons having control of a child between the ages of six and 18 who is deaf or blind and who fail to enroll the child in school are guilty of a misdemeanor. Upon conviction, they will be fined or imprisoned at the discretion of the court. **(Sec. 115-172 and 115-173 NCGS)**

Superintendents of city and county districts are required to report the names and addresses of parents, guardians, or persons having control of any deaf or blind children residing within their unit to the superintendent of the appropriate institution and to the department of public instruction. **(Sec. 115-175 NCGS)**

Policy: The General Assembly of North Carolina declares that the policy of the state is to ensure every child a fair and full opportunity to reach his full potential and that no child shall be excluded from service or education for any reason whatsoever.

(Sec. 2, Chap 2193, 1973 Session)

Responsibilities: The state shall develop a system of educational opportunities for all children with special needs and require the identification and evaluation of the needs of children and the adequacy of various education programs before placement of children, and shall provide for periodic evaluation of the benefits of programs to the individual child and the nature of the child's needs thereafter. The state shall prevent denial of equal educational and service opportunity on the basis of national origin, sex, economic status, race, religion, and physical, mental, social or emotional handicap in the provision of services to any child. (sec. 3, Ch 1293, 1973 Session)

Identification, Assessment and Placement

The general assembly finds that a current census of all children with special needs is urgently needed and is necessary in order to enact appropriate legislation to provide services and education programs for all children with special needs, and approp $50,000 each to the departments of human resources and public education with the requirement that they work in cooperation to plan and conduct the census. (Sec. 6, Chap. 1293, 1973 Session)

Responsibilities: Special education classes may be established and organized in any administrative unit or district which has one or more handicapped individuals, with the approval of the state superintendent of public instruction and the state board of education. **(Sec. 115-200 NCGS)**

In *North Carolina Association for Retarded Children, Inc. v. State of North Carolina,* the North Carolina A.R.C. and 13 mentally retarded children are the plaintiffs. The defendants include the state, various state agencies and department heads, a city school district, and a county school district. Plaintiffs allege that the state failed to provide free public education for state's estimated 75,000 mentally retarded children, a violation of rights and due process. A reversal of discriminatory practices and guarantee of rights for plaintiff children are sought. This case was filed May 19, 1972. An expanded complaint filed July 31, 1972, joins suit with *Crystal Rene Hamilton v. Dr. J. Iverson Riddle, Superintendent of Western Carolina Center, et. al.* The expanded suit focuses on state institutions for the mentally retarded. The case is in the discovery process and a full hearing is scheduled. (lawsuit)

In *Hamilton v. Riddle*, Crystal Rene Hamilton, an eight-year old mentally retarded child placed temporarily at Western Carolina Center, represents the class of school-age mentally retarded children residing in North Carolina as plaintiff. The defendants are the superintendent of the Western Carolina Center, the secretary of the North Carolina department of human resources, the state superintendent of public instruction, and the chairman of the Gaston County board of education. Attorneys allege that the state has not provided equal educational facilities for the plaintiff, denying her equal protection of the law as guaranteed under state statutes and the U.S. Constitution. Also challenged is the state's arbitrary selection of children eligible for education and the financial demands for treatment placed on parents. Appointment of a three-judge court is sought to hear the case. Enforcement of state equal protection statutes and repeal of those contrary to this and an injunction preventing Western Carolina Center from evicting Crystal is also requested. The case, filed May 5, 1972, is still pending. (lawsuit)

POPULATION

Definitions. Programs are organized under the supervision of the state superintendent of public instruction for "handicapped, crippled, and other classes of individuals requiring special types of instruction." **(Sec. 115-200 NCGS) (L)**

" 'Hearing impaired children' are those with hearing losses which are handicapping educationally and developmentally, and include those children who may later be educationally classified as hard-of-hearing as well as those who may later be classified as deaf." **(R)**

" 'Hard-of-hearing children' are those whose hearing is defective but still functional, with or without a hearing aid, for the ordinary purposes of life." **(R)**

" 'Deaf children' are those whose hearing is not functional for the ordinary purposes of life." **(R)**

"The child with a learning disability exhibits a difference in one or more of the basic psychological processes involved in understanding or using spoken or written language. These may be manifested in differences of listening, thinking, talking, reading, writing, spelling, or arithmetic. They include conditions which have been referred to as perceptual handicap, brain injury, minimal brain dysfunction, dyslexia, developmental aphasia, etc. They do not include learning differences which are due primarily to visual, hearing, or motor handicaps, to mental retardation, or to emotional disturbances." **(H.R. 549 Sec. 1) (L)**

Age of Eligibility: Handicapped children are eligible for services from birth to adulthood. Services are provided to the deaf and the blind until they reach age 18. If a need exists, services may be extended to age 21 for the deaf or the blind. **(Sec. 115-200 NCGS) (L)**

"Functionally retarded, including autistic, schizophrenic, and other educationally handicapped children are not included within the definition of mentally retarded children." **(Op. Att'y. Gen., May 12, 1970)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: The state board of education is responsible for adopting necessary rules and regulations for taking a complete census of the school population and maintaining in the superintendent's office of each administrative unit a continuous census of the school population. If any parent, guardian, or other person having the custody of a child refuses to give authorized persons the necessary information to enable these persons to obtain correct information, or willfully makes any false statement relative to the age or the mental or physical condition of any child, he is guilty of a misdemeanor. **(Sec. 115-161 NCGS) (L)**

When directed by the board of education in the administrative unit, it shall be the duty of the superintendent of public instruction in that unit to conduct a survey of the preschool aged children residing in each unit for the purpose of determining the identity of the hearing impaired. The superintendent shall then make a full report to the board as to his findings and shall thereafter report to the board, from time to time, any other such hearing-impaired children within the administrative unit when they shall come to his attention. All preschool children included in the program shall first be afforded an otological and audiological examination. **(L)**

Screening: Under the general supervision of the state superintendent there is a comprehensive program of physical education and health education. All teachers and principals are required to screen and observe all pupils in order to detect signs and symptoms of deviations from normal, and to report their findings according to state policies.

With the cooperation of the state board of health, the state superintendent will make rules and regulations regarding screening and observation by teachers and for the medical and psychiatric examination of pupils attending the public schools. Chronic remediable defects for underprivileged children may be corrected out of school health funds. **(Sec. 115-204 NCGS) (L)**

Identification of hearing impaired children may be made by physicians, public health or school nurses, principals, teachers, or qualified referral agencies. **(R)**

The local school unit should develop and have on record written policies and procedures for the identification, selection, placement and return to regular classes of children in the learning disabled program. **(R)**

The speech and hearing therapist (clinician), working with other school personnel, is responsible for designing a program to identify children who need speech, language, and/or hearing services. **(R)**

Assessment and Placement: It is the responsibility of the local administrative unit to obtain and keep in a central file appropriate medical, otological and/or audiological evaluations, which are subject to review by the state superintendent of public instruction. **(R)**

When questions regarding proper placement arise, a pupil placement committee can provide advisory services. The committee may be composed of: (1) a representative of the local school system; (2) a representative of the division for exceptional children of the state department of public instruction; (3) a representative of the appropriate state residential school for the deaf; (4) any other invited member such as representatives of private or university speech and hearing clinics, or other interested agencies. Referral to the committee may be made by any agency serving hearing impaired children. All pertinent information should be reviewed by the committee in arriving at a placement recommendation. It is recommended that transfer from a state residential program to public schools or from a public school program to a residential program be arranged well in advance of admission in September or January. **(R)**

Diagnosis of a learning disability should be made by a multi-disciplinary team composed of at least a teacher and/or principal, a school or educational psychologist, and an attending physician (preferably a pediatric neurologist). It may be recommended that a child have a complete neurological evaluation. **(R)**

Placement of hearing impaired children in public schools is in a regular classroom with the supportive services of a special teacher or in a special self-contained class. **(R)**

A student who is said to have a specific learning disability has potential for growth and development. The accuracy with which this student's needs and wants are determined and the attitude of significant adults and peers best predict the rate and level of this student's growth and development. Eligibility and placement must, therefore, consider the reasonableness of the school environment as well as the student's differences. Environments for this student must be designed to advocate his best interest. **(R)**

The speech and hearing therapist (clinician), working with other school personnel, is responsible for designing a program to identify children who need speech, language, and/or hearing services. **(R)**

Placement of a child in the therapist's caseload is determined on the basis of diagnostic speech, language, and hearing evaluations performed by the therapist or referral agencies that are approved by the local unit.

To be eligible for direct therapeutic intervention, a child must have disordered speech, language and/or hearing as indicated by appropriate evaluations. It is the responsibility of the speech and hearing therapist to make the decision regarding the type of speech, language, or hearing service that should be provided the child with a speech, language, or hearing handicap. All children whose speech or language is unintelligible should be given priority in case selection. **(R)**

Placement of children in programs for the educable mentally retarded is determined by a placement committee of appropriate personnel on the basis of a psychological assessment and evaluation of the child's intellectual functioning, social and personal behavior, academic performance, and general adaptive behavior. The I.Q. range of children placed in EMR programs should be between 50 and 75 (on the Stanford-Binet or Wechsler Scales or equivalent), including one standard error of measurement. A parental conference is strongly recommended prior to placement. **(R)**

To be eligible for enrollment in a public school program for the trainable mentally retarded, elementary and secondary levels, a child must be of school age and have a moderate degree of mental retardation as indicated by tests of mental ability administered by a qualified psychologist or psychological examiner. (I.Q. in the 30-50 range with one standard error of measurement). The child must be adjudged not capable of placement in an EMR class, and must have had a recent medical examination showing him free from communicable diseases. Placement into a program for the trainable mentally retarded shall be made only with the understanding and approval of the parent or guardian. (R)

A child, his parent or guardian may obtain review of an action or omission by state or local authorities on the ground that the child has been or is about to be:

(a) denied entry or continuance in a program appropriate to his needs;

(b) placed in a program which is inappropriate, unsuitable, or inadequate to his condition and needs; or

(c) assigned to a special program when he is not a child with special need

The parent or guardian of a child placed or denied placement in a program shall be notified promptly by registered or certified mail, return receipt requested, of the action or impending action, and of his right to a review of the determination and of the procedures for obtaining such review. The notice shall contain information that a hearing may be held before the local school board, for educational matters, or before the governor's advocacy council in the case of human resource matters, within 15 to 30 days after the date on whcih the notice was received. Within 30 days after a decision, the parent or guardian may file a written request for an appeal of the decision to the state superintendent of public instruction or the secretary of human resources. Any appeal of these decisions to the General Court of Justice must be made within 30 days of the notice of such decision.

All hearings shall be closed unless the parent or guardian requests otherwise.

Ordinarily no change in the program assignment or status of a child with special needs may be made within the period afforded the parent or guardian to request a hearing, unless the parent or guardian consents to such a change.

However, if the health or safety of the child or of any other individual would be endangered by delaying the change in assignment, the change may be made sooner, but without prejudice to the legal rights of the child of his parent or guardian. (Sec. 10, Chap 1293, 1973 Session)

A crippled child should be placed in a self-contained special class for the crippled only when placement in a regular classroom program is inadvisable. **(R)**

Before being placed in a program for the emotionally disturbed, a child should have a complete evaluation by either a school or educational psychologist stressing the child's achievement levels, sensory-motor and perceptual competence, and social interaction. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The state school for the deaf is under the supervision of an independent board of directors and a superintendent. (Sec. 115-336 NCGS) (L)

The program of special education is administered under the state superintendent of public instruction. The state superintendent is authorized to appoint any personnel necessary for (1) aiding county and city boards of education in organizing classes for the handicapped; (2) recommending plans for the establishment of day classes and schools, common instruction, and other methods of special education and curriculum design; (3) recommending competent medical and psychological authorities to determine eligibility of handicapped children; (4) arranging, when necessary, for handicapped children or adults to attend school in an administrative unit or district other than the one in which the child resides; and (5) cooperating with the state department of public welfare, the state board of health, the state schools for the blind and deaf, the state sanatoria, the children's hospitals, or other agencies concerned with the welfare and health of handicapped persons. **(Sec. 115-200 NCGS) (L)**

There shall be organized and administered by the state superintendent of public instruction and the state board of education, under the general supervision of the state superintendent of public instruction, a program for the education of hearing-impaired children residing within the state. Such program shall be available to all preschool hearing impaired children between the ages of one and six and all hard-of-hearing children of school age. This program will be a continuing program and shall commence during the school year 1969-70. The state superintendent of public instruction, subject to the approval of the state board of education, shall formulate reasonable rules prescribing the program and procedures for its operation and maintenance and shall prescribe rules for determining a child's eligibility for participation on the basis of adequate individual audiology, medical evaluation and other related factors. However, children who are of school age and who are, upon medical evaluation found to be deaf, may be instructed in the North Carolina School for the Deaf. In order to assure maximum participation by local school administrative units, full information on the rules and regulations and pertinent information shall be forwarded to the local school unit in time for them to meet the requirements in qualifying for participation in the program. **(L)**

There is hereby created within the state department of public instruction a section to be known as the section for the education of children with learning disabilities. **(L)**

The section for the education of children with learning disabilities within the public school system shall be administered by a section director under the general supervision of the state superintendent. The section director shall be appointed by the state superintendent subject to the approval of the state board. The salary of the section director shall be determined by the state personnel board upon recommendation of the state board and shall be adequate to obtain a person highly trained and qualified by reason of education and experience in the area of dealing with children with learning disabilities. The state board is authorized to provide the section director with such assistance, clerical help, and travel allowances as it may determine necessary to carry out the responsibilities of the office of section director under this act. **(L)**

The section director shall recommend and the state superintendent appoint, with the approval of the state board, a supervisor for testing and pupil classification who shall, in cooperation with existing testing and pupil classification services of the department of public instruction, be charged with the responsibility of testing and evaluating all children in the public school system, or who are of compulsory school attendance age, for the purpose of identifying children with learning disabilities. Said supervisor shall be a person well trained in testing and diagnosis of learning disabilities and professionally qualified to carry out this responsibility. In addition, the section director shall recommend that the state superintendent appoint with the approval of the state board, such specialists as may be necessary for adequate counseling and identification of those children with learning disabilities throughout the state; and the state board shall provide necessary funds for office expense and travel for the conduct of their work. **(L)**

In each of the three regional centers staffed by the state department of public instruction, appropriate programs in education for children with learning disabilities shall be established and developed by a district supervisor of education for children with learning disabilities. These regional consultants shall be recommended by the section director and shall be well trained and experienced in the area of learning disabilities. These regional consultants shall be provided with funds for office expense and travel allowances. Their duties shall include assistance to local administrative units in planning programs and developing curricula for children with learning disabilities. **(L)**

The section director, under the direction of the state board and in accordance with the rules and regulations prescribed by it, is authorized to perform such other powers and duties as the board may prescribe for the implementation of the purposes of this act, including the following: research studies which will develop techniques, curricula, and materials especially applicable to children with learning disabilities; recommendation of special books, materials, and other supplies to be purchased by the State Board for the proper implementation of this act, including the local programs provided in section 8; direction of the regional education consultants provided for in Section 6 in the development of proper curriculum and studies to fit the individual needs of children with learning disabilities within the district of the supervisor and of the local administrative units within such districts; and establishment of standards for the teachers of children with learning disabilities to be employed or paid in whole or in part pursuant to the provisions of this act, and to give such examinations or tests as may be necessary to determine such qualifications **(H.R. 549) (L)**

Planning

The departments of human resources and public education shall use the results of the census to jointly develop a state plan for providing equal education and services to children with special needs. The plan shall include the number and geographic distribution of children with special needs, a listing of all public and private special education and servic programs available in the state and the number of children served by each program. A preliminary plan containing the actions required by the departments of human resources and public education for securing full compliance with state policy, specifying a date by which the state shall accomplish the intent of this act, and including an estimate of the cost of full implementation of the policy, shall be submitted to the 1975 general assembly. (Sec. 7, Ch 1293, 1973 Session)

Each state agency and department having responsibilities for providing services to children and their families, including children with special needs and children in early childhood, shall submit to the Governor's Advocacy Council on Children and Youth a plan o services for children that includes:

(a) descriptions of the kinds of services and programs it provides;

(b) the characteristics of the children to be served through each program, including eligibility and entrance requirements;

(c) the geograhpic distribution of services;

(d) the projected budgets for each service or program as well as the cost per unit of service;

(e) the client fees to be charged for each service

(f) the mechanism for evaluating and providing technical assistance and staff development to each service or program;

(g) provisions for parent and child participation and involvement

The Council shall review each plan and make recommendations to agencies and departments, and reports to the general assembly, relative to the expansion, deletion, im ment and coordination of programs and services for children.

The council shall provide information and assistance to parents and children in obtaining assistance and services. (Sec. 110-71, NCGS)

An advisory council broadly representative of individuals and community agencies having responsibility for the education and socialization of children should be formed to assist and advise in the development and evaluation of the program. (Representatives might include general educators, juvenile correction authorities, parents, legislators, special educators, and social and mental health services personnel.) **(R)**

The superintendent of any school administrative unit may submit to the section director a proposal, including any program already in operation, for a local program for the education of children with learning disabilities in that administrative unit. If such proposal is approved by the section director in accordance with rules and regulations to be those prescribed by the state board for qualification of local programs under this act, there shall be allocated by the state board out of the Nine Months' School Fund to the school administrative unit such funds as may be necessary to carry out the program. Such programs may include additional teachers, special materials and books, plans for identifying and guiding pupils with learning disabilities, or other items of excess cost not properly borne by the local unit; provided that such amount allocated shall not exceed a maximum amount for each participant pupil to be fixed by the state board.

Teachers for such approved local programs may be alloted out of the teachers provided for by the Nine Months' School Fund, provided such allotments may be in addition to the regular teacher allotment to the administrative unit involved. Two or more administrative units may join together for the purpose of operating such a program, under the direction of the section for the education of children with learning disabilities. **(L)**

Local school administrative units will develop comprehensive plans for programs and services to meet the special needs of exceptional children. Not later than August 15, 1972, on forms to be provided, program plans for 1972-73 shall be submitted to the state department of public instruction for review. **(R)**

In developing a plan of programs and services for exceptional children, local units should consider the following:

1. Assessing needs within the total school population being served and determining priorities;
2. Planning a continuum of services for exceptional children, maintaining them in regular education whenever possible, and providing direct services as needed;
3. Developing a comprehensive plan taking into account the various categories of exceptionality; and
4. Providing maximum opportunities for the exceptional child to participate with peers in the activities of the regular school program.

Innovative programs in the education of exceptional children are encouraged. Such programs should be included in the local unit's comprehensive plan. Consideration should be given to the use of additional local, state, and federal resources which may be approvable for programs for exceptional children. **(R)**

FINANCE

The state board of education is authorized to provide from available funds a program of special education. The state board is also authorized to receive contributions and donations to be used in conjunction with any appropriations to carry out the special education program. **(Sec. 115-200 NCGS) (L)**

The state board shall, when sufficient state funds are available, provide first for the allotment of a sufficient number of teachers so as to prevent teacher loads from being too great in any school. The board has discretionary authorization to make an additional allotment of teaching personnel, including special education personnel, to county and city administrative units to be used jointly or separately, as the board prescribes. The salary of all such personnel shall be determined in accordance with the salary schedule adopted by the board. Teaching personnel may also be alloted, at the board's discretion, for experimental purposes, to county and city administrative units. **(Sec. 115-11 NCGS) (L)**

The superintendent of each school administrative unit is required to submit to the state board of education a statement, certified by the chairman of the board of education, showing the organization of the schools in his unit and any additional information that the state board may require. The state board of education shall then determine the number of instructional personnel to be included in the state budget in not more than three categories, general teachers, vocational teachers, and special education teachers. **(Sec. 115-59 NCGS) (L)**

Expenditures in the school budget for the operation of the school system shall be listed by county and city board of education under these separate funds: "The current expense fund, the capital outlay fund; and the debt service fund." The current expense fund includes the cost of purchasing instructional apparatus and equipment and salaries for trained instructors and teachers for preschool and school age children whose hearing is impaired. **(Sec. 115-78 NCGS) (L)**

There is hereby appropriated to the Nine Months' School Fund for the fiscal year 1973-74 the sum of $865,000 for the implementation of the program for the education of children with learning disabilities in the public school system provided by this act. The state board shall transfer from this appropriation to the department of public instruction the amounts the state board deems to be required for the functions provided in Sections 3, 4, 5, 6, and 7 of this act. The remainder of this appropriation shall be used for the allocations for approved local programs provided for in Section 8 of this act, provided that said allocations shall be over and above amounts which are available for implementation of these local programs from the regular allotments made from the Nine Months' School Fund to administrative units. **(L)**

"In addition to such other funds as may be available for their purposes, county and city boards of education establishing programs for the peschool age hearing impaired and school age hard of hearing under this article are authorized to expend therefor any state or local funds appropriated to them under the provisions of this article. County and city boards may also receive gifts to be used for such programs and may expend them for such purposes. Any funds received by way of gift for use of the hearing impaired program shall be faithfully accounted for the same as if such funds were public funds. County and city boards of education are authorized to include in their capital outlay and current expense budgets funds to facilitate the establishment, maintenance and operation of programs pursuant to this article, and the tax levying authorities of the counties and municipalities involved are authorized to levy proper taxes therefor." **(Sec. 115-315.5 NCGS) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The state superintendent may appoint such personnel as may be needed to arrange where necessary for a handicapped child or adult person to attend school in an administrative unit or district other than the one in which he resides, and to cooperate with the state department of public welfare, the state board of health, the state schools for the blind and deaf, the state sanatoria, the children's hospitals, or other agencies concerned with the welfare and health of handicapped persons. **(L)**

If the number of eligible exceptional children in an administrative unit is not sufficient to justify a special program, local boards in adjacent districts may by written agreement recorded in their minutes, jointly operate a program. This written agreement must indicate the unit having administrative responsibility for the program, and to which funding shall be made by the state board. **(R)**

County and city boards of education are hereby authorized to establish programs for preschool hearing impaired children and hard of hearing school age children in each administrative unit. Boards of education in more than one administrative unit may by written agreement recorded in their minutes jointly operate such programs. **(L)**

"When the county or city board of education in any administrative unit or units shall approve the establishment of an instruction program for preschool age hearing impaired children and for the school age hard of hearing in said unit or units, it may thereupon request from the state board of education an allotment of teachers for the program and such other allotments as may be applicable to the program. When such programs in a unit or a combination of units meets the rules and regulations prescribed in accordance with the state board of education, the state board may provide teachers and other applicable allotments for such a program from the appropriation made to the Nine Months' School fund. Whenever a request is disapproved, either by failure to qualify under the rules and regulations established under authority of G.S. 115-315.3 or because of lack of funds, the reason for such disapproval shall be certified by the state superintendent of public instruction to the state board of education and to the superintendent of the unit or units making the request." **(Sec. 115-315.6 NCGS) (L)**

SERVICES

County or city boards of education, under their own rules and regulations, may provide for the transportation of children with special needs, such as the mentally retarded and for physically handicapped, and children enrolled in programs that require transportation from the school grounds during the school day, such as special vocational or occupational programs. If state funds are insufficient for the transportation approved by the local boards, local funds may be used for this purpose. **(Sec. 115-183 NCGS) (L)**

It is the intent of this act to provide a comprehensive educational program for preschool hearing impaired and school age hard of hearing children, including a system for identification and evaluation, in a "normal public school environment in their home community." The continuing need for the state's residential schools for the deaf is recognized. **(Sec. 115-315.1 NCGS) (L)**

"Deaf" shall include the congenitally and adventitiously deaf and shall mean "those children in whom a sense of hearing is nonfunctional for the ordinary purposes of life."

"Hard of hearing" refers to children whose hearing "is functional with or without a hearing aid."

"Hearing impaired" is inclusive of both hard of hearing and deaf and refers to "any child in whom there is some substantial degree of hearing impairment which calls for special instruction or special equipment in the learning processes." **(Sec. 115-315.2 NCGS) (L)**

The superintendent of public instruction, subject to the approval of the state board, shall formulate reasonable rules prescribing the program and its procedure for operation for the education of hearing impaired children between the ages of one and six. A child's eligibility for participation, as prescribed by the state superintendent with state board approval, shall be determined on the basis of "individual audiology, medical evaluation and other related factors." Deaf children may be educated in the North Carolina School for the Deaf. Full disclosure to the local school unit of information, rules, and regulations concerning these programs shall be made by the superintendent of public instruction, with a clear distinction made between the programs provided for preschool children and school age children. **(Sec. 115-315.3 NCGS) (L)**

County and city boards of education are authorized to establish programs for preschool hearing impaired and school age hard of hearing children in each administrative unit. Boards of education in more than one administrative unit may jointly operate such programs. At the local board's discretion the local unit superintendent shall conduct a survey of the preschool age children in the unit to determine the identity of the hearing impaired and shall report, "from time to time, any other such hearing impaired children" in the unit when they come to his attention. All preschool children included in the program must be given otological and audiological examinations. **(Sec. 115-315.4 NCGS) (L)**

County and city boards of education establishing programs for preschool hearing impaired children and school age hard of hearing children are authorized to levy taxes and expend "any state or local funds appropriated to them under this article" and may also receive gifts to be used and such programs if accounted for as public funds **(Sec. 115-315.5 NCGS) (L)**

After establishing instructional programs for preschool hearing impaired children and school age hard of hearing children, the city or county board of education in any administrative unit(s) may request an allotment of teachers from the state board of education. The state board may provide such teacher allotments from the appropriation made to the Nine Months' School Fund. When such a request is disapproved under regulations established by Section 115-315.3, or because of lack of funds, the reason for such disapproval shall be certified by the state superintendent of public instruction to the state board and the superintendent of the local unit. **(Sec. 115-315.6 NCGS) (L)**

The Dean of the School of Medicine of the University of North Carolina is directed to establish in the Department of Psychiatry in the Biological Sciences Division of the Child Development Institute "The Institute for the Treatment and Education of Children Afflicted with Autism and Related Communication Handicaps. **(Ch. 1007, Session Laws of 1971) (L)**

The institute will consist of three regional centers. **(Ch. 1007, Session Laws of 1971) (L)**

The function of the institute shall be the identification, evaluation, and education of children with autism and related communication disorders. Educational and training programs for such children shall be offered along with "support and training for their parents." The institute will conduct research, including program evaluation, development of new treatment, educational techniques, and related programs concerning problems of communication development. The institute will also provide "demonstration classes, train teachers, (and) provide consultation and support classes for communication handicapped children in cooperation with the department of public instruction. The department of public instruction is hereby directed to support and assist the institute in the accomplishment of the functions of the Institute." **(Ch. 1007, Session Laws of 1971) (L)**

To the extent possible, funds from annual program support are to be appropriated equitably to the three regions in appropriate local areas, as determined by the Dean of The School of Medicine, for the establishment of classes for communication for handicapped and autistic children. Classrooms shall serve children in areas outside of regular school districts, and "shall not be considered part of a superintendent's general special education program." Children may be admitted to classes as soon as their educational handicap can be identified. The institute shall assure the active involvement and training of the parents of the children served in the methods of educating such children. **(Ch. 1007, Sessions Laws of 1971) (L)**

The length of the school day is determined by the boards of education in city and county school districts. The minimum time for which teachers are employed is six hours. However, boards of education may adopt rules and regulations allowing handicapped children and children attending the first and second grades to attend school for a period less than six hours. **(L)**

Consultants in the speech and hearing program, division for exceptional children, state department of public instruction, can supply addresses for speech and hearing clinics in the state as well as provide information regarding program development, federal funds, and coordination with service agencies. In addition, local boards of education may wish to coordinate their programs with the work of local boards of health, social services agencies, developmental evaluation clinics, speech and hearing clinics, and other interested agencies. **(R)**

The speech therapist is a part of the professional team of the school, with the responsibility of working with the local director of exceptional children, principals, and teachers in developing programs to meet the needs of children who possess speech, language, or hearing disorders. He has responsibility for developing a Continuum of Services Plan for the school.

A continuum of services plan involves a communication development program, a communication deviations program and a communication disorders program. The communication development program serves the general school population and is prevention oriented, providing strong speech and language models and sequenced curricular activities emphasizing listening skills, cognitive and expressive competencies, understanding and protection of the hearing and speech mechanism, and self-confidence to help children develop appropriate communicative behaviors in social, educational, and cultural contexts. The role of the therapist includes planning, promotions, consultation, and demonstration with professionals and supportive personnel. The program may be conducted in a regular classroom or large groups; it may be itinerant or building based. Other participants most commonly used in this program are teachers, parents, counselors, health and science personnel, and paraprofessionals.

The Communication Deviations Program serves individuals with verbal deviations of some consequence, although not defined as handicapping communicative disorders. The program provides services which include speech, language, and hearing screening, and speech and language improvement. The therapist's role includes identification diagnosis, organization, consultation, and supervision of supportive personnel, and occasionally a direct role in correction and follow-up. The program may be conducted in regular classrooms, large groups, small groups, and it may be itinerant, block, or building based. Other participants in this program may be teachers, parents, paraprofessionals, education and psychological examiners, audiologists, nurses, and physicians.

The communication disorders program serves children with handicapping disorders of communication. It includes comprehensive diagnostic and intensive individual and/or small group therapy utilizing modern research technology and clinical-education practices. The therapist's responsibility includes diagnosis and program management, including direct scheduling, referral, counseling, direct therapy, and dismissal. The therapist works with children on an individual basis or in small groups. Schedules may be on the itinerant or block system. Participants called upon by the therapist include physicians, psychiatrists, audiologists, psychologists, dentists, social workers, counselors, regular and special teachers, and parents. **(R)**

School systems have reported the following kinds of special programming for children with learning disabilities: heterogeneous grouping (within open classrooms), heterogeneous grouping through blocking and other similar arrangements, resource and crisis rooms that emphasize prescriptive teaching, mental health consultation to program personnel, teacher-moms and teacher-dads, cross-age helping (using these children to tutor other children), retired individuals to provide "listening posts" for children to reverbalize their experiences, special classroom arrangements, day and residential camping (such as Carolina Boys' Camp at Candor, North Carolina), individual child study and prescriptive teaching programs, preschool intervention (for example, language development for autistic children), group and individual counseling for parents, music and other forms of activity therapy, reflective environments, and child advocates and other child advocacy arrangements. **(R)**

Class Size	NUMBER OF PUPILS	
	Minimum	Maximum
LEARNING DISABLED		
Special Class	--	10
Resource Teacher (caseload) (w/teacher aide)	--	25
AURALLY HANDICAPPED		
Special Class	6[1]	6[1]
DEAF		
Special Class	6[1]	6[1]
SPEECH HANDICAPPED		
Speech Therapist (caseload)	--[2]	--[2]
EDUCABLE MENTALLY HANDICAPPED		
Special Class - Primary Grades	12[3]	12[3]
Special Class - Elementary Grades	16[3]	16[3]
Resource Teacher (Daily Caseload)	--	24-30
TRAINABLE MENTALLY HANDICAPPED		
Special Class	--	12[4]
PHYSICALLY HANDICAPPED		
Hospitalized Instruction (caseload)	6	12
Special Class (Crippled Children)	6	12
EMOTIONALLY DISTURBED		
Special Class (w/teacher aide)	--	10
Resource Teacher (caseload - w/teacher aide)	--	25
GIFTED		
Special Class	16	25

---

[1] Appropriate class size

[2] "As intensively as is professionally feasible and sound."

[3] Approximate class size

[4] 16 when demand is great. Teacher aide must be employed if class is larger than seven children. In classes of 13-16 children, two teacher aides must be employed to help the teacher

PRIVATE

To provide children with an educational opportunity which may not exist in the public schools, "it shall be the policy of this state to make an educational experience available to each eligible child" for private or out of state education. **(Sec. 115-316.7 NCGS) (L)**

Children eligible for an educational expense grant include the seriously emotionally disturbed, the severely learning disabled, the visually and/or hearing handicapped and impaired, the multiple handicapped, the mentally retarded, and the crippled or other health impaired child. **(Sec. 115-316.8 NCGS) (L)**

Every exceptional child residing in the state eligible to attend a public school may apply for an education expense grant. **(Sec. 115-316.9 NCGS) (L)**

Such application shall be signed under oath of affirmation by the parent or guardian or the person standing in loco parentis to the child for whom application is made. **(Sec. 115-316.11 NCGS) (L)**

It shall be state policy to provide an educational expense grant to each eligible child to cover the cost of tuition in a private or out-of-state educational facility, but the amount of such grant may not exceed $2,000 per year per child. **(Sec. 115-315.10) (L)**

Funds are appropriated by the state assembly but may also be accepted from public or private donors. **(R)**

The state board is authorized to receive sums from the general fund or from other sources the General Assembly may authorize, or from any public or private donor "for the purpose for which they have been provided." The state board shall also establish criteria and procedures for determining who will receive educational expense grants and shall establish criteria for the approval of private and out of state education facilities. **(Sec. 115-316.12 NCGS) (L)**

Appropriate education must be unavailable in public schools and the child must be eligible to attend public school if programs were available. The state board may establish other criteria. **(R)**

Exceptional children eligible to attend public schools may apply for an educational expense grant through their parent, guardian, or person standing in loco parentis. The application is made to the board of education of the administrative unit of residence. Standard forms prescribed by the state board must be used and signed under oath or affirmation of the child's parent. The application is sent to the state board of education for approval. **(R)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Class A Secondary and Special Subject (Certificate No. 9)
bachelor's degree: professional education (18), specialization (30)

Eligibility for Graduate Secondary and Special Subject (Certificate No. 10)
hold or qualify for Certificate No. 9, master's degree

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

NORTH DAKOTA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The legislative assembly shall provide ...for a uniform system of free public schools throughout the state, beginning with the primary and extending throughout all grades up to and including the normal collegiate course." **(Art VIII, Sec. 147, N.D. Const.) (L)**

Compulsory Attendance Law: Parents or guardians of deaf children who are at least four years of age, or any blind or mentally deficient child of at least seven years and not yet 20, must send the child, if deaf, to the school for the deaf at Devils Lake or to any other adequate institution for the entire school year, unless excused by the superinten dent of that institution. If the child is blind, he must be sent to the school for the blind at Grand Forks or any other adequate institution for the entire school year, unless excused, and mentally deficient children must be sent to the state school at Grafton, or any other adequate institution unless excused by the superintendent of the institution. An adequate institution shall mean any school, public or private specializing in the training appropriate for the type of handicapped children enrolled. **(NDS Sec. 15 34 102) (L)**

Parents, guardians or other persons having control of a child of compulsory school age are excused from having the child attend school if it is shown to the satisfaction of the school board, subject to appeal as provided by law, that one of the following reasons exists: 1. the child is in such mental and physical condition as to render attendance and participation in the regular and special education program inexpedient and impracticable, as evidenced by a licensed physician if required by the board; 2. no school exists, by the direct route within two miles of the child's residence. There are three further qualifications: the child must be in a school district which does not pay for transportation (in accordance with the schedule contained in this chapter), for the equivalent of lodging or tuition from other schools with the approval of the parent or guardian, or furnish vehicular transportation by public conveyance for the child, or no school exists within six miles of the child's residence by the nearest route. This is applicable if the child's residence is within a district which does not furnish vehicular transportation by public conveyance for children living more than six miles to the nearest school. Reasons 2 and 3 cited above do not apply in the case of deaf, blind, or mentally deficient children. **(NDS Sec. 15-34-03) (L)**

Responsibilities: The school districts shall provide special education to handicapped children. They may do so jointly with one or more other districts and shall cooperate with the state advisory council, the director of special education, and the institutions of the state. **(NDS Sec. 15-5904) (L)**

The Attorney General was asked to give an opinion on the question of the timing of implementation of the new mandatory law. The law was passed July 1, 1973, but would not be fully implemented before July 1, 1980. The plans for implementing the act were to be submitted by July 1, 1975. The question was asked as to what time a district must provide special education. The Attorney General's office provided the guidelines in an informal opinion. "We believe the mandate for special education became effective July 1, 1973. We also believe, however, that the Legislature recognized it would be a practical impossibility to have a fully implemented program by that time and that is the reason for the subsequent dates. Therefore, while a school district may not be able to provide a complete program of special education on July1, 1973, neither do we believe the school district can do nothing about providing a program of special education for a child already identified as handicapped. The statute obviously requires the school districts to begin to offer such a program now with an acceleration of the program so that it will be fully implemented by July 1, 1980. If the school district cannot offer the full program at this time, it does not excuse them from a bona fide effort to begin the program of special education immediately." **(Op. Att'y. Gen., August 6, 1973)**

In *North Dakota Association for Retarded Children v. Peterson,* plaintiffs include the North Dakota A.R.C. and 13 handicapped children who represent all other children similarly situated. The state superintendent of public instruction, state board of education, state director of institutions, superintendent of state school for the mentally retarded and six local school districts are defendants. Attorneys allege that plaintiffs' rights have been denied because equal education is not available to them. Plaintiffs are either in private schools at parents' expense because no public program is available; in inappropriate placements in public schools or state institutions; or at home. Compulsory attendance laws discriminate against handicapped children. It is requested that a three-judge court to remedy existing violations of equal rights be convened. It is also sought that special education in public schools and institutions be provided state-wide. The case was filed November 28, 1972. State and local districts filed motions to dismiss since mandatory state law has been passed but will not be effective until 1980. Plaintiffs plan to pursue suit.

POPULATION

Definitions: " 'Exceptional child' means a natural person to the age of twenty-one, who, because of mental, physical, emotional, or learning characteristics, requires special education services. This may include a handicapped child or a gifted child."

" 'Handicapped child' means a child who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, specific learning disabled, crippled, or otherwise health impaired who by reason thereof requires special education and related services."

"Children with such severe hearing losses that they have interfered with the normal development of language and speech may need the special attention and instruction of a classroom for hearing impaired children are said to be hearing impaired." **(R)**

"Children are said to have specific learning disabilities when they have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect function in listening, thinking, speaking, reading, writing, spelling, or doing mathematical calculations. Such disorders include conditions described as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia but do not include those with learning problems primarily the result of visual, hearing, or motor handicaps, of mental retardation, or emotional disturbance or of environmental disadvantage. **(R)**

"Speech is said to be defective when it is 'so different from that of others that it is difficult to understand, or call undue attention to itself, or causes the speaker to be maladjusted.'' **(R)**

Age of Eligibility: Special education services may be provided to children between ages six and 21. **(L)**

Chapter 171, section 15-59-01 of the North Dakota Century Code establishes provisions for the special education of physically handicapped children. The term "physically handicapped" in the above Code also included children who are mentally handicapped. **(Op. Att'y. Gen., October 15, 1961)**

Section 147 of the North Dakota Constitution directs the establishment and maintenance of public schools in the state for all children. Under Chapter 15-59 of the North Dakota Century Code, a school system may provide special education to exceptional children. "Exceptional children," defined in Section 15-59-01, Subsection 1 of the Code, makes specific reference to educable children. To determine whether a child is educable or not is not to be limited to any I.Q. score. It must be determined as a matter of fact, upon all circumstances. Facilities for mentally retarded children may be provided if a child will profit from them. **(Op. Att'y .Gen., June 19, 1964)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: The school board of education in all classes of school districts must conduct in every odd numbered year between June 1 and 20, a census of all unmarried persons under age 21 residing in the school district.

The following information is to be collected during the census. (1) "The names of all deaf, blind, and mentally deficient persons between the ages of five years and 25 years residing in the district, including all such persons who are too deaf or mentally deficient to acquire an education in the common schools," (2) The names and ages of all crippled persons of any age, residing in the district, and (3) The names and post office addresses of the parents or guardians of all persons mentioned above.

Every school district shall make and keep a current record of all school age handicapped children who are residents of the school districts. **(L)**

The census returns must be sent to the county superintendent before July 15. A copy of the report is retained in the office of the clerk of the school district. **(NDS Secs. 15-2513 and 15-4713) (L)**

After completion of the census, county superintendents are required to forward a copy of the enumeration of deaf persons to the superintendent of the school for the deaf, of blind persons to the superintendent of the school for the blind, and of mentally deficient persons to the superintendent of the Grafton State School. **(NDS Sec. 15- 47-13(L)**

If county superintendents report any persons of school age who are alleged to be physically or mentally defective to the county board of health, the board must investigate the report and direct the school board, board of education, or the person in charge of the child to take any necessary action. **(NDS Sec. 15-4723) (L)**

The births of all children with a visible, congenital deformity must be reported to the division of child welfare within three days of the birth. The report must include the date and place of birth, sex, names of the parents, name of the physician or other persons attending the birth, diagnosis and description of the deformity, and any other required information.

Children born out of wedlock with a congenital deformity in a licensed maternity home or hospital must be reported by the licensee of the home or hospital. All births occurring outside of maternity homes or hospitals will be reported by the physician in attendance. In the absence of a physician, the registered nurse or other attendant is responsible for reporting. **(NDS Sec. 50-2002 and 50-2003) (L)**

Every public school superintendent, physician, otologist, audiologist, nurse, clinic, hospital, and social and welfare agency must report in writing to the superintendent of the North Dakota School for the Deaf the name, age, residence, and any other pertinent information of all persons under 21 years of age who are deaf or hard of hearing. All reports must be forwarded to the superintendent within 30 days after diagnosis, examination, or discovery. **(Sec. 2, Chapter 273, 1971) (L)**

Screening: To find those children in lower grades who may be needing a special class, reading tests, achievement tests, and group intelligence tests may be used as screening devices. The group who show marked educational retardation will require further study to differentiate those children who are mentally retarded from those who are retarded in educational skills but have average ability. **(R)**

Assessment and Placement: Local boards are responsible for arranging evaluation of individual children. The school psychologist conducts individual testing and makes referrals for psychiatric evaluation. He also holds conferences with parents and teachers. Before a child is given a psychological evaluation, a conference should be held with the parents to explain the procedure and how the evaluation will be used. **(R)**

Only an individual psychological evaluation should be used to place a child in a special class. Observations of parents and teachers are also important. Psychological testing is available through community health services of the mental health services of the mental health division, department of health, and area offices for children and youth, department of public welfare. **(R)**

Children with severe mental deficiency (below 30 IQ) are not eligible for special education in the public schools **(R)**

All school age children should be given audiometric screening. This may be done by volunteers who have been given training in screening procedures, under the supervision of a person well-schooled in hearing and hearing testing. **(R)**

Medical, psychological, and educational reports are necessary to assess hearing impaired children. A study of (1) the child's ability to use amplified sound, (2) his speech development, (3) his language development, (4) intellectual potential, and (5) social adequacy skills should be considered by the school administrator, teacher, director of special education and other personnel before placement is made. **(R)**

When it has been determined that a child has a significant hearing loss as a result of the sequence of referrals described above, and when necessary medical and surgical treatment and follow-up have been provided, the audiological and medical findings of the otologist must be conveyed to the parents and to other persons who are particularly concerned with the management of the child. The special education supervisor, the speech clinician, and the classroom teacher must be apprised of the child's needs and encouraged to meet them as comprehensively as possible. Appropriate entry should be made in the child's school health records so that a continuing program of care can be insured. A report, in the form of an audiogram, should be made available for parents to take to the physician or otologist for purposes of comparison.

If there is indication of financial need or reluctance on the part of the parents in obtaining otological or other medical attention, some agency or organization should be available to assist. A referral to the Public Health Nurse or to the County Welfare Office may be helpful. **(R)**

Children thought to be learning disabled will need to have diagnostic educational testing and evaluation reports, including intellectual assessment, before eligibility is determined. Educational diagnosis implies several steps: (1) collection of case history information, (2) collection of existing data, (3) further assessment and compilation of additional test results, (4) analysis of diagnostic information, (5) in some situations, a statement as to probable cause and basic etiology of the problem; and (6) a prescription for the treatment or remediation of the problem. **(R)**

Children with emotional disturbances which cause specific learning disabilities may be enrolled in the program when appropriate. **(R)**

All school age children should be screened for speech defects. Referrals may also be made by teachers. **(R)**

The speech clinician should use articulation screening devices, and should note voice quality and fluency. **(R)**

The speech clinician should examine the child's speech mechanisms, acquire pertinent medical reports; conduct tests of articulation, auditory discrimination, and auditory memory span; evaluate the child's language development, and interview parents as well as other persons concerned with the child. The clinician should conduct continuing diagnosis during the period in which the child receives therapy. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The superintendent of public instruction with the advice of the advisory council, shall employ a qualified director of special education and any other necessary personnel. **(NDS Sec. 15-5903) (L)**

The advisory council on special education, acting through the office of the superintendent of public instruction, is responsible for establishing general state policy for the special education program and for coordinating all available services. They also cooperate with private agencies, soliciting their advice and cooperation in establishing policy in the coordination and development of special education programs. **(NDS Sec. 15-5902) (L)**

The director of special education, with the approval of the advisory council, prescribes the rules and regulations for special education and assists the school districts in the inauguration, administration, and development of special education programs. The director also establishes standards and approves certification of schools, teachers, facilities and equipment. **(NDS Sec. 15-5905) (L)**

The director of institutions establishes the rules and regulations for the program of sending deaf-blind children to out-of-state schools and institutions. **(NDS Sec. 15-47-34) (L)**

State institutions for the deaf, blind, mentally deficient, and emotionally disturbed are under the supervision of the director of institutions.

PLANNING

The state board of public school education constitutes the advisory council on special education.

The advisory council, acting through the office of the superintendent of public instruction, establishes general state policy cooperative special education programs, coordinating all available services. It must cooperate with private agencies, soliciting their advice and cooperation in the establishment of policy and in the coordination and development of special education programs. With the approval of the advisory council and in accordance with the provisions of this Act and the policy of the council, the director of special education must prescribe rules and regulations for the special education of exceptional children and for the administration of this Act and he must assist the school districts of the state in the inauguration, administration and development of special education programs, establish standards and provide for the approval of certification of schools, teachers, facilities, and equipment. **(R)**

Each school district shall submit a plan with the superintendent of public instruction for implementing special education in the district by July 1, 1975. Special education services shall be fully implemented by 7-1-80. **(NDS 15-59-04) (L)**

Total programming cannot be done overnight. However, those districts with identified handicapped children should begin programming immediately, in these ways: a. Through effort of single district, b. Cooperatively with one or more other districts, c. County-wide through county special education boards, and d. Regionally with several counties and county boards involved.

School districts may program for gifted children but only programming for handicapped children is included in the mandate

FINANCE

Exceptional children enrolled in approved programs are considered as regularly enrolled in school and are included in the determination of payments for elementary and high school pupils from the county equalization fund, whether or not the pupils are regularly attending school in the district receiving such payments. If the director determines that: (1) the school district has expended for each exceptional child an amount equal to the average expenditures made in the district for elementary or high school students; (2) the parents or the legally responsible person of the child receiving special education under the program have made adequate efforts to provide needed education, or (3) adequate reasons otherwise exist for the provision of special education to the child, the director may reimburse the school district in an amount not exceeding 1½ times the state average per pupil cost of education for the previous school year for each child and two times the state average per pupil cost of education the previous year for each child for transportation, equipment, and residential care. **(NDS 15-5906) (L)**

Children attending state schools for the deaf receive a free education. **(NDS 25-07-04) (L)**

The North Dakota finance committee pays, from the county equalization fund to the state school for the blind and the state school for the deaf, per pupil costs of the actual educational costs. **(NDS Sec. 15-4.01-07) (L)**

The superintendent of public instruction may apply for, administer, receive, and expend any federal aid for which this state may be eligible, under the office of the superintendent of public instruction, in the administration of this chapter within the limits of legislative appropriation. School districts, county special education boards, and multi-county special education boards shall be eligible to serve as the local education agency for application, within the limits of legislative appropriation. **(NDS Sec. 15-59-05.1) (L)**

The county board of special education shall annually prepare a program for special education in the county and a budget necessary to implement such program. The program and budget shall be submitted to the board of county commissioners at the same time and in the same manner as other statements on budgetary matters are filed. If such program and budget are approved by the board of county commissioners, the county commissioners may budget funds from the county general fund and, in addition, upon approval by a majority of the voters voting on the proposal at an election called by the county commissioner may levy a tax not to exceed three mills upon all taxable property in the county for the purpose of carrying out such programs. Such mill levy shall be over and above any mill levy limitation provided by law and shall be collected and paid in the same manner as are other county property taxes. The county treasurer shall credit the proceeds of the tax levy, together with any other funds received from the state or other sources for special education purposes, to a special education fund. Such funds shall be expended, within the limitations of the budget approved by the board of county commissioners, as directed by the county board of special education upon vouchers approved by the county superintendent of schools and in the same manner as other county funds are expended, except that such specific expenditures need not be approved by the board of county commissioners. **(NDS Sec. 15-59.1-02) (L)**

Upon filing with the board of county commissioners at least 30 days in advance of any regular county election of a petition signed by five percent of the electors of the county as determined by the number of votes cast for the office of governor at the preceding general election, the question of whether to continue the mill levy of not to exceed three mills for financing the special education program shall be submitted to the voters at the next regular county election. If the levy for special education is disapproved by a majority of the votes cast at this election, the board of county commissioners shall immediately discontinue such levy, but levies previously spread upon the tax rolls shall not be invalidated. A subsequent vote upon the question of authorizing a mill levy of not to exceed three mills may be had at any regular county election upon the filing with the board of county commissioners of a petition containing the signatures of five percent of the electors of the county as determined by the number of votes cast for the office of governor at the preceding general election not less than thirty days prior to such election. **(NDS 15-59.1-03) (L)**

If the budget and program submitted by the county board of special education are approved by the department of public instruction, any payments for special education under the provisions of section 15-59-06 shall be made to the county board of special education and disbursed by such board in furtherance of the county program. If such budget and program are not approved, any such payments shall be made to the school districts in the county providing special education facilities. Nothing contained in this section shall alter the method of making per-pupil payments out of the county equalization fund or from the state equalization fund to the county equalization fund. **(NDS Sec. 15-59.1-05) (L)**

When it is deemed desirable by the board of county commissioners of two or more counties, such counties may join together in the formation of a multiple county board of special education. Such board shall consist of at least one member from each county special education board appointed by the respective county superintendent of schools and approved by the respective boards of county commissioners. Vacancies shall be filled in the same manner as provided in original appointment. Such multiple county board shall designate one of the county treasurers to act as treasurer for special education funds and one of the county superintendents of schools to act as secretary and executive officers of the board. The remaining county superintendents of schools shall receive such other duties in connection with the special education programs as the joint board of special education shall designate. **(NDS Sec. 15-59.1-06) (L)**

The multiple county board shall prepare a program and budget and submit it to the joint board of county commissioners for approval in the same manner and at the same time as provided in the case of individual county programs. The amount budgeted and approved shall be prorated among the counties according to the assessed valuation of each county or upon such basis as the respective boards of county commissioners shall agree. The amount prorated to each county shall be included in the respective county budgets in the same manner and shall be subject to the same procedures, limitations, and conditions as those specified for individual county special education budgets and tax levies. Provisions applicable to individual county programs in regard to approval by the department of public instruction and payments from the state and the state or county equalization funds shall also apply to multiple county programs. **(NDS Sec. 15-59.1-07) (L)**

SERVICES

" 'Special education' shall mean the provision of facilities, instruction, supervision, and other necessary services as not otherwise provided such children in the public schools and institutions except that facilities and instructions and supervision and other necessary services may be provided for blind children even though the same are provided in state institutions." **(NDS Sec. 15-5901) (L)**

Boards of county commissioners shall order the county to pay transportation expenses to and from the school for the deaf for indigent children. When levying other taxes, they shall levy a sum sufficient for such transportation. In order to avoid delay, the superintendent of the school may pay for the transportation and forward an itemized statement of the expense to the county auditor. The board of county commissioners shall then order the repayment to the superintendent who will account for such money to the director. **(NDS Sec. 25-07-07) (L)**

The school for the deaf at Devils Lake shall be considered as part of the system of free public schools in the state. **(NDS Sec. 15-47-02) (L)**

The director of institutions may send deaf-blind children, under the age 21 and for whom there are no facilities within the state, to any school or institution outside North Dakota, providing there is an approved program for such children. Funds may be spent for room, board, tuition, transportation, and other items necessary for the education for these children. **(NDS Sec. 15-47-34) (L)**

No transportation shall be furnished to a deaf, blind, or mentally deficient child who is not attending the public schools of the district. **(NDS Sec. 15-34-07) (L)**

Children attending the state school for the deaf must be transported to the school by their parents or by the county in which the child resides. **(NDS Sec. 25-07-04) (L)**

The child must be enrolled in the public schools of the district providing the transportation. **(R)**

Transportation to a special class within a school district, or to another school district for children who must attend a special class there is provided.

Transportation is provided to an out of state day or residential program for deaf-blind children. **(R)**

The mode of transportation is school buses or parents of rural children receiving speech therapy in a county program. **(R)**

For children attending classes in their district of residence, transportation is included with other expenses in determining state reimbursement. The local school may request reimbursement for funds expended not to exceed the amount of $35 per child per month for children who must attend a special class outside of their own school district. This is not available where transportation of other children from the district is accessible and practical for the child under special education, nor when attendance in a special class or service is less than a full school day instructional program.

Reimbursement for transportation will be figured on the basis of distance, necessity, and other factors.

Each county must transport indigent children to the state school for the deaf at its own expense. **(R)**

Class Size:	NUMBER OF PUPILS	
	Minimum	Maximum
SPEECH HANDICAPPED		
Speech and Hearing Therapist	50	80
LEARNING DISABLED		
Special Class	--	10
AURALLY HANDICAPPED		
Special Class	6	10
DEAF		
Special Class	6	10
EDUCABLE MENTALLY HANDICAPPED		
Special Class	5	15
TRAINABLE MENTALLY HANDICAPPED		
Special Class	6	12
PHYSICALLY HANDICAPPED		
Special Class	6	12
EMOTIONALLY DISTURBED		
Visiting Counselor (caseload)	30	60
VISUALLY HANDICAPPED		
Supplementary Instructor	1	1
BLIND		
Resource Teacher - Elementary Level	--	6
Resource Teacher - Secondary Level	--	10

For children with specific learning disabilities, a number of organizational patterns may be considered, all of which would require full-time employment of a qualified teacher. Maintaining the child as an enrolled pupil in the regular classroom is preferred, although a self-contained classroom can be considered. Supplementary teaching for the youngsters identified as eligible for the program may be done through an itinerant teacher in a resource-type classroom. The resource type of classroom would serve as a location to work individually with youngsters, occasionally

with small groups, and as a central depository for materials which may be recommended for use by the regular classroom teacher as prescribed by the teacher of children with specific learning disabilities. Educational diagnosis for those children included in the SLD program will be a part of the function of the specialist in specific learning disabilities.

A qualified speech clinician is employed by the county schools or city schools sponsoring the program to provide an intensive speech correction program during a six week or eight week summer period. The clinician is responsible to the sponsor and may travel to two or three centers in a countywide program, if so organized.

Children are selected from teacher referral, parent referral and from any testing done which may have indicated need for speech correction. Verification of need for speech correction must be made by the clinician before enrollment.

Between 25 and 40 children will comprise a full-time case load. Each child should be seen three times weekly.

Tape recorder and pure-tone audiometers can be furnished when available on temporary loan from the division of special education.

The speech clinician's qualifications are the same as for speech clinicians during regular school year.

The state financial participation will be figured on the basis of reimbursement for regular school-year programs: six weeks, up to $500; eight weeks, up to $600.

Assistance in planning is available also. **(R)**

PRIVATE

Any school district having physically handicapped, learning disabled, or mentally handicapped children for whom the district has no public schools with the necessary facilities which will accept them, shall contract with an accredited private, non-sectarian, non-profit corporation inside or outside the state if there are no public schools with the necessary facilities which will accept such children. Before any school district contracts with any private agency, the curriculum and the contract must be approved by the superintendent of public instruction. **(NDS Sec. 15-5907) (L)**

When the school district contracts with a private agency, the contract must stipulate that the school district pays the private agency an amount for the school year equal to three times that state average per pupil elementary or high school costs. If a physically handicapped or learning disabled student will be attending for less than a school year, the cost will be prorated on a monthly basis. The school district shall count any student attending school under such an arrangement as a regularly enrolled student of the district, which makes the district eligible for reimbursement from state foundation funds for 60% of expenditures. **(NDS Sec. 15-5907) (L)**

A contract is to be drawn on forms provided by the superintendent of public instruction after a decision is made by the team, which consists of a qualified psychologist, a medical doctor, and a district superintendent.

Chapter 171, Section 15-59-07 of the North Dakota Century Laws provide for the sending of physically handicapped children to accredited private non-sectarian, non-profit schools if services are not available in the public schools. A private school could be run by a church and be eligible if the school maintains an independent status and its instruction in on an entirely non-sectarian basis. **(Op. Att'y. Gen., Sept. 1, 1961)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for First Grade Professional Certificate (Certificate No. 4)

valid grades K-12 bachelor's degree, including professional education (16) and student teaching (5)

Eligibility for Special Education Credential

valid Certificate No. 4 including student teaching in area (5) and specialization courses (varies)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

NEW JERSEY

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution. "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in this state between the ages of five and 18 years." **(Art VIII, Sec. 4, N.J. Const.) (L)**

Compulsory Attendance Law: All children will attend the public schools of the district unless it is shown to the satisfaction of the board of education that the mental or bodily condition of the child prevents his benefiting from instruction or his attendance at school. "Nothing herein shall be construed as permitting the temporary or permanent exclusion from school by the board of education of any district of any child between the ages of five and 20, except as explicitly otherwise provided by law." **(N.J.S. 18A 38-6) (L)**

Responsibilities: "It shall be the duty of each board of education to provide suitable facilities and programs of education for all children who are classified as handicapped under this chapter, except those so mentally retarded as to be neither educable or trainable. The absence or unavailability of a special class facility in any district shall not be construed as relieving the board of education of the responsibility for providing education for any child who qualified under this chapter." **(N.J.S. 18A 46-13) (L)**

A pupil may be refused admission to or excluded temporarily from the schools of any district for any reasonable time, pending his examination, and classification, pursuant to this chapter. **(N.J.S. 18 46-16) (L)**

POPULATION

Definitions. "As used in this chapter 'handicapped child' includes any child who is mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, and multiple handicapped." **(N.J.S. 18A:46-1) (L)**

A deaf child is defined as "a child whose residual hearing is not sufficient to enable him to understand speech and develop language successfully, even with a hearing aid, without specialized instruction. He is unable to interpret speech sounds as a result of an approximate 70 or more average decibel (ISO) loss in hearing in the 'better' ear as measured with a calibrated audiometer by a person legally qualified to determine hearing disability." **(R)**

A hard of hearing child is defined as "a child whose sense of hearing "although defective, is functional with or without a hearing aid, but whose hearing loss renders him unable to make full use of regular school experiences without special education. He should show a 30 or more average decibel (ISO) loss in hearing in either ear as measured with a calibrated audiometer by a person legally qualified to determine hearing impairment." **(R)**

A communication handicapped child is defined as a child whose "native speech or language is severely impaired to the extent that it seriously interferes with his ability to use oral language to communicate." This disability must not be due primarily to a hearing impairment. **(R)**

Age of Eligibility: Services must be provided to children between the ages of five and 20 and may be provided to those under five and over age 20 for those who have not completed high school. **(L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: All boards of education are responsible for identifying, according to state board rules, children between the ages of five and 20 in the public schools of the district who are not being properly accommodated because of their handicaps. **(N.J.S. 18A:46-6) (L)**

The boards of education will annually report to the county superintendent, who in turn reports to the commissioner, the names of all children in special education programs, names and addresses of the parents or guardians having control or custody of the children, and the category into which they have been classified. This report must include the names and addresses of handicapped children not attending school. The commissioner will make the information in the reports available to state agencies charged with the care and treatment of any particular category of handicapped children. **(N.J.S. 18A:46-7) (L)**

The identification process may involve the judgment of teachers, medical and health professionals, school administrators, special services personnel, parents, and/or agencies concerned with the welfare of children. The identification process shall include a planned screening. **(R)**

All physicians in charge of a case of "mental deficiency or epilepsy" and the medical supervisor of any school who have reason to believe that a person attending the school is "mentally deficient or has epilepsy" will report the case to the assessor of the township in which the person resides.

All physicians shall report all cases of cerebral palsy under their care if the patient is under 18 as well as any new cases of cerebral palsy, regardless of the age of the patient. Reports are made to the local boards of health. The state department of health will furnish the forms and prescribe the regulations in which the reports are to be made.

Screening: The medical inspector or nurse, under the immediate direction of the medical director, will examine all children to learn whether defects exist and will keep a continuous record of the growth and development of the children. The record is the property of the board of education and will be delivered by the medical inspector or nurse to his successor in office. **(L)**

Assessment and Placement: Children classified as handicapped must be the primary instructional responsibility of a teacher certified to teach pupils so disabled. Such teachers must provide instruction designed to correct or compensate for the disability as well as work cooperatively with other teachers to whom the handicapped child may be assigned for portions of his educational program.

The placement of handicapped pupils is the responsibility of the chief school administrator, or his designated agent, acting for the board of education and must be based on the recommendations of the basic child study team employed by the local board of education or upon the findings of a clinic or child evaluation center whose services are purchased by the local board of education.

Children classified as handicapped must not be denied because of such handicap participation in extracurricular, intramural, and interscholastic activities as well as health, recreation, and social services activities. **(R)**

All handicapped children will be identified, examined, and classified according to procedures established by the state board and the commissioner under one of the following categories: mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, or multiply handicapped. **(L)**

Boards of education, separately or jointly with one or more boards of education, will employ psychological examiners who, acting jointly with special education personnel, will administer the procedures for diagnosing and classifying children. If districts do not employ psychological examiners, they may contract to use with or without financial reimbursement psychological or other services of any clinic or agency approved by the commissioner. **(L)**

When the results of a survey of handicapped children in any county, in the opinion of the commissioner warrants it, he shall, with the approval of the state board, establish a department of child study which shall be charged with the duty of performing the services required to be performed at the county level. He shall appoint a supervisor for one or more of these county departments and shall appoint such additional personnel as he considers necessary to comprise a child study team. The chairman of this team is appointed by the county superintendent(s) or, in case of disagreement, by the commissioner. The commissioner coordinates the work of these departments and teams.

These include identification, diagnosis, evaluation, and placement of children needing special educational services, social case work, remedial instruction, and additional responsibilities as determined by the commissioner with state board approval.

Boards of education separately or jointly employ a psychological examiner or contract with approved clinics and agencies to have psychological examinations performed.

Classification procedures by a basic child study team must include a determination of hearing made by legally qualified practitioners in the field of hearing impairment. **(L)**

Handicapped pupils must be assigned to educational programs according to how they can best achieve success in learning. Whenever possible, handicapped pupils must be grouped and/or participate with nonhandicapped children in activities that are part of their educational programs. **(L)**

With the approval of the state board of education and the state board of control, the commissioner will prescribe standards for approving clinics or agencies furnishing services. **(N.J.S. 18A:46-12) (L)**

Boards of education are not required to provide any further educational program for children who have been admitted to the state school for the deaf, but they are required to furnish necessary daily transportation to and from the school for non-boarding pupils, if the transportation is approved by the county superintendent. **(N.J.S. 18A:46-13) (L)**

The classification of communication handicapped must be made by the basic child study team and an approved speech correctionist or speech apthologist. An exception to the above is the classification of simple articulation disorders which may be made by an approved speech correctionist or speech pathologist without child study team consultation. Such children must be reported to the basic child study team. **(L)**

The classification of communication handicapped shall be made by the basic child study team and an approved speech correctionist or speech pathologist. An exception to the above is the classification of simple articulation disorders which may be made by an approved speech correctionist or speech pathologist without child study team consultation. Such children shall be reported to the basic child study team. **(L)**

Classification procedures by a basic child study team shall include a determination of hearing made by a legally qualified practitioner in the field of hearing impairment. **(L)**

ADMINISTRATIVE RESPONSIBILITY

With the consent of the state board, the commissioner, according to the rules and regulations prescribed by him with the approval of the state board, will provide special education facilities and educational programs meeting the requirements of this chapter. Periodically by the use of available members of his staff, he will publish bulletins and through any other means available, encourage boards of education to establish programs. **(N.J.S. 18A:46-15) (L)**

The commissioner may require periodically the educational, financial, and statistical reports from governing boards. **(N.J.S. 18A:46-16) (L)**

The commissioner is responsible for coordinating the county departments of child study for the general administration of special education services. In order to carry out these provisions, he will appoint persons qualified to administer educational services in the field of education of the handicapped including each of the following disability groups: mentally retarded, orthopedically handicapped, communication handicapped, visually handicapped, neurologically and perceptually impaired, chronically ill, emotionally disturbed, social maladjusted and the auditorily handicapped. He will also appoint a consultant experienced in child psychiatry and specialists in school psychology, health service, school social work, learning disabilities, special education, and any other necessary personnel.

When the results of a survey of handicapped children in any county, in the opinion of the commissioner warrants it, he shall, with the approval of the state board, establish a department of child study which shall be charged with the duty of performing the services required to be performed at the county level under this chapter. He shall appoint for each county department of child study or, with the approval of the state board, for one or more county departments of child study, a supervisor, whose duties shall include the coordination of the special education services in the county, and he shall appoint, such additional personnel, constituting a child study team as he deems necessary to perform such services for handicapped children.

In addition to the supervisor of child study the members of each child study team shall include personnel qualified to administer, supervise, or otherwise perform the required special education services.

The county superintendent of the county or the county superintendents of the counties served by one child study team jointly shall, with the approval of the commissioner, designate a member of the child study team to serve as chairman and in event that they cannot agree the chairman shall be designated by the commissioner. **(N.J.S. 18A:46-3) (L)**

The commissioner shall fix the terms of office and compensation of the supervisor and other members of the child study team. Their salaries shall be paid as other state salaries are paid by warrants drawn by the director of the division of budget and accounting on the state treasurer, on orders issued by the commissioner. All claims for expenses of the supervisor, not exceeding in any one year the sum of $750.00 for each county, not more than two in which he shall serve, shall be paid after being audited by the county superintendent on orders issued by the county superintendent and drawn on the county treasurer. **(N.J.S. 18A:46-4) (L)**

Each county child study team shall function in consultation with the local boards of education in the county or the local boards of education in the counties served by it in the fields pertaining to:

1. identification and diagnosis of children needing special educational services;
2. development and approval of public school programs for handicapped pupils;
3. supervision and coordination of public school programs for handicapped pupils;
4. reporting and referral of children with handicaps of such severity as to indicate the necessity of residential placement, medical or psychological treatment, or care, to the appropriate agency for such purpose;
5. social case work and psychological evaluation;
6. remedial instruction;
7. cooperative action with other state and county departments and lay professional organizations; and
8. additional responsibilities as determined by the commissioner with the approval of the state board. **(N.J.S. 18A:46-5) (L)**

PLANNING

The commissioner shall appoint biannually an advisory council with the approval of the state board which will consist of between seven and 15 members representative of professional and lay interests. The advisory council shall advise in the promulgation of rules, regulations, and the implementation of this chapter and the establishment of standards and qualifications for the professional personnel. The council shall serve without remuneration. **(N.J.S. 18A:46-2) (L)**

FINANCE

The board of education will furnish daily transportation to all handicapped children who qualify. The school district providing transportation will receive state aid for 75 percent of the cost if the necessity for this transportation and the cost and method of transportation has been approved by the county superintendent. **(N.J.S. 18A:46-23) (L)**

Each state college operating approved special classes or classes for handicapped children is paid $2,000 per class. Local school districts, whether operating special education classes separately or jointly, are reimbursed in the following manner:

1. Cost of operating an educational program for the handicapped (including a cost for identification, examination, supervision, and other special education services approved by the commissioner) will be reimbursed at the rate of 50 percent, except that no local district jointure commission or college demonstration school will receive more than $3,000 a class in state aid and one half of the approved portion paid to another school district or state operated facility, or private school.
2. 75 percent of the cost of furnishing transportation within the state if it has been approved by the commissioner.

State aid in the amount of one-half of the apportionment to jointure commissions to any contracting district for operational expenses will be paid to the contracting districts. State aid will be apportioned to each contracting district in accordance with the number of pupils enrolled from the district. **(N.J.S. 18A:58-6) (L)**

If approved special education services are provided by a county special services school district, all reimbursement goes to the county for such special services district. **(N.J.S. 18A:58-6) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

The commissioner may require a board of education having appropriate facilities to provide services to children from other districts. **(L)**

Any board of education, jointure commission, state operated facility, or private school, which receives pupils from another district, will determine tuition rates to be paid by the sending board of education. In no case will the tuition rate in a non-public school exceed the maximum day class per pupil cost of education in similar education classes in public schools as determined by the formula prescribed by the state commissioner. **(L)**

If a tuition rate not exceeding 50 percent of the cost for such education is paid by sending districts, the board of education of the county special services school may receive pupils from other counties as far as their facilities permit. Any schools established under this act must accept all eligible pupils within the county if the facilities are available. **(L)**

Payments will be made quarterly to the receiving districts by each sending district. The rate of annual tuition cannot exceed 50 percent of the prorata annual cost of operating and maintaining the county special services school district after deducting from such costs all amounts of aid received by this district from the county, state or federal government, but excluding any cost from the cost of required payments of interest or principal on bonds or notes of the county issued for purpose of the district. **(L)**

The aggregate amount of all these payments and tuitions may be anticipated by the board of education of the county special services school district and by the board of chosen freeholders of the county with respect to the annual budget. Amounts of all annual tuition payments paid by any school district will be raised each year in the annual budget of the other school districts paid to the county special services school districts. The board of education in any county special services district, with the approval of the chosen freeholders, will provide for the establishment, maintenance, and operation of dormitory or other boarding care facilities for pupils attending one or more of its schools. The board will provide for establishment of health care services and facilities. **(L)**

By February 1, annually, the board of education of county services to school districts will deliver to each member of the board of school estimates an itemized statement as to the amount of money estimated to be necessary for care and expenses and for repairing and furnishing schools or buildings. Between February 1 and February 15, the board will fix and determine, by official action taken at a public meeting, the amount of money necessary for the use of the district. The amounts of money needed by the district will be appropriated and collected by the board of chosen freeholders in the same manner as money appropriated for other purposes in the county. If the board of education of the special services district finds it necessary to raise money to purchase land or buildings for school purposes or for erecting, enlarging, improving, repairing, or furnishing buildings for the use of the district, the board will prepare and deliver to each member of the board of school estimate, statements of the amount of money estimated to be necessary for these purposes. Money needed for these purposes may be obtained in the same manner as the county raises money for these purposes including issuance of bonds or notes of the county pursuant to the local bond law. **(L)**

If a board of education enters its pupils into special education services in another district, it may not withdraw the pupils for the purpose of entering them in another district, unless "good and sufficient reason exists for such a change and unless an application therefore is made and approved by the commissioner." If either the receiving or sending board of education is dissatisfied with the determination of the commission on any application, the matter may be appealed to the state board, and at its discretion, that body may affirm, reverse, or modify the commissioner's decision. **(L)**

Any two or more districts may provide facilities, examinations, or transportation under the terms of the agreement adopted in resolutions by all involved boards of education setting forth the essential information concerning the facilities, examinations, or transportation to be provided. Cost will be apportioned among the districts. All agreements must be approved by the commissioner. **(L)**

If two or more of the boards of education decide to jointly carry out their special education responsibilities, the boards may, in accordance with the rules and regulations of the state board and with the approval of the commissioner, adopt joint resolutions to establish a jointure commission to provide these services. The commission, in accordance with the rules of the state board, is composed of representatives of respective boards of education. **(L)**

The jointure commission has the authority to:

1. provide and maintain necessary facilities by acquiring land, buildings, and furnishing or renting,
2. take any necessary action to conduct proper educational programs for children referred to the commission by boards of education or members of the commission,
3. employ necessary principals, teachers, and other officers or employees who have the same rights and privileges as those similarly employed by local boards of education,
4. accept pupils from other school districts and fix the tuition rate; and
5. apportion among the districts the amounts of capital and per capita operating costs in the programs. **(L)**

Within the limited responsibilities of providing services to handicapped children, the commission has and may exercise all powers of a board of education. **(L)**

Contracting boards of a jointure commission shall: 1) raise the amounts apportioned by the commission in the same manner as other school funds for capital and current expenses are raised, 2) pay the commission their apportioned amounts, 3) be responsible for classifying children with the districts and referring them to the commission, and 4) provide transportation for children to and from schools referred to the commission. **(L)**

Contracting districts may withdraw from the commission in accordance with the state board rules and regulations, and additional districts may become contracting districts. **(L)**

A county board of freeholders may establish a county special services school district for the education and treatment of handicapped children upon finding that the needs exist for such a district. Before making any finding, the board must hold at least one public hearing with at least 10 days' notice of time and place in a newspaper of general circulation within the county. The state board is responsible for prescribing the rules and regulations to organize, manage, and control the special service school. **(L)**

The course of study in the special services schools must be approved by the commissioner and the state board. As a first priority, programs should be established that are not available in any other school in the county, especially for those with unusually severe disabilities or unusual multi-disabilities. Then courses of study should be established which may be available but for which there is not sufficient capacity to accommodate all the students identified and classified as requiring these courses. The school year for these districts begins on July 1 and ends on June 30. **(L)**

Each county special services district has a board of education consisting of a superintendent of schools ex officio and six persons appointed by the director of the chosen board of freeholders. In any county having a county mental health board, the chairman of the board also serves as an ex officio member, but is not entitled to vote on any matter before the board. All members of the board shall have shown an interest in children with an unusual disability or in the field of mental health. **(L)**

Proceeds of the sale of any of these obligations will be paid to the treasurer of the county special services district. If for any reason the proceeds are not applied to necessary special education purposes, the board of education of the county special services district may transfer the remaining balance to the capital outlay in the county school district. **(L)**

All teachers, principals, and other employees of the board of education of the county special services district possess all the rights and privileges of teachers, principals, or employees of other boards of education of the other school districts. Whenever a county special services school district is established, the treasurer of the school district will be paid by the commissioner an amount equal to that raised in the county for establishing the school district, exclusive of the amount appropriated for purchasing land or erecting buildings. The state will annually then appropriate an amount equal to the amount appropriated by the county for the operation of the district. **(L)**

Boards of education of special services school districts shall appoint an advisory committee of at least 10 members, consisting of representatives of recognized organizations, working exclusively with children classified as having unusual disability and, in any county with the department of [illegible], the county child study supervisor. The committee must meet at least four times a year to consider or [illegible] the board and make any recommendations to it. **(L)**

See Administrative Responsibility.

SERVICES

Children classified as needing special education shall be classified according to abilities to benefit from specified types of educational services. These services must be conducted according to the rules and regulations of the commissioner and the state board. The types of services to be provided include but are not limited to: 1) case work with the pupil at home or at school, 2) counseling and guidance; 3) remedial instruction; 4) special scheduling of the school program including part-time attendance and special or regular classes in other agencies or institutions, 5) special grouping in school for children whose prognosis is favorable to return to the regular program, and 6) arrangement through the commissioner for direct services from the county department of child study. **(N.J.S. 18A: 46-10) (L)**

Special education services required may be provided by one or more of the following:

1. special class or classes in the district including class or classes in hospitals, convalescent homes, or other institutions;
2. special classes in the public schools of another district in the state or an adjoining or nearby state;
3. joint facilities including a class or classes in hospitals, convalescent homes, or other institutions provided by an agreement between one or more school districts;
4. a jointure commission program;
5. a state operated program;
6. instruction in school supplementary to other programs in the school if, in the judgment of the board of education, the handicapped pupil is best served in this manner; and
7. sending children capable of benefiting from a day-school instructional program to privately operated non-profit day classes in the state or an adjoining or nearby state within 400 miles of Trenton. (With the approval of the commissioner and to meet particular circumstances, the child may be sent a greater distance from Trenton.) The services of these schools must be non-sectarian, and they may be only provided if it is impractical to provide services according to items one through five. Individual instruction is provided at home or in school, if it is impracticable to provide a suitable special education program according to all seven above. **(N.J.S. 18A:46-14) (L)**

If a child is in a hospital, convalescent home, or other institution within the state or nearby state, the board of education of the district of residence will pay the tuition of the child in the program. The board may also furnish services to children over the age of 20 without a high school diploma and to children under age five. **(N.J.S. 18A: 46-14) (L)**

The board of education will furnish daily transportation to all handicapped children who qualify.

Any two or more districts may provide transportation under the terms of the agreement adopted in resolutions by all involved boards of education, setting forth the essential information concerning the facilities, examinations, or transportation to be provided. Cost will be apportioned among the districts. All agreements must be approved by the commissioner. **(L)**

The school district providing transportation will receive state aid for 75 percent of the cost if the necessity for this transportation and the cost and method of transportation has been approved by the county superintendent. **(L)**

Class Size:	**NUMBER OF PUPILS** **Minimum**	 **Maximum**[1]
EDUCABLE MENTALLY HANDICAPPED		
Special Class	--	15
TRAINABLE MENTALLY HANDICAPPED		
Special Class	--	10
SPEECH HANDICAPPED		
Special Class (communication handicapped)	--	10
PHYSICALLY HANDICAPPED		
Special Class (chronically ill)	--	20
Special Class (orthopedically handicapped)	--	15
EMOTIONALLY DISTURBED		
Special Class (emotionally disturbed)	--	8
Special Class (socially maladjusted)	--	12
LEARNING DISABLED		
Special Class (neurologically impaired)	--	8
Special Class (perceptually impaired)	--	12
MULTIPLY HANDICAPPED		
Special Class	--	8
VISUALLY HANDICAPPED		
Special Class	--	8
BLIND		
Special Class	--	10
AURALLY HANDICAPPED		
Special Class	--	8
DEAF		
Special Class	--	8

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[1] Maximum class sizes may be increased by no more than 1/3 by the addition of teacher aides with advance approval from the Bureau of special Education and Pupil Personnel Services. No class shall have on roll more than 1-1/2 times the maximum class size for that classification for departmentalized programs. For academic instructional purposes no class will have at any one time any more than the maximum number designated for that handicap, with the exception of physical education, art, and similar activities.

PRIVATE

All handicapped children, except "those so mentally retarded as to be neither educable nor trainable" are eligible for placement in private facilities. A child must be capable of benefiting from the program and it must be impractical for the school district or state to provide an appropriate program. **(L)**

The commissioner must approve in advance each individual case, utilizing a child study team's evaluation. **(L)**

The sending board of education pays day school costs, not exceeding the maximum tuition cost as established by the state board for the school year. **(L)**

Payment may be only for rendered services, beginning with approval or retroactively as determined by the child study team. No prepayment by the board or by the child's parents is permitted. The state reimburses the local board for 50% of the costs. **(L)**

A child may be placed in a nonpublic facility more than 400 miles from Trenton only under special circumstances and with the commissioner's approval. **(L)**

School day, class size, and grouping must conform to state standards for the public schools. Record of examinations, both group and individual, used in identifying, evaluating and placing the child must be accessible to the commissioner, his appointed representatives, and approved agencies. **(L)**

The program must be open to observation by the chief school administrator of the sending district and to the commissioner or his representatives. Financial records must be made available for computation of tuition costs. The cost of day school instruction must be listed separately from costs of other services provided. Capital improvements may not be included in determining tuition costs. Records must be available for review by the commissioner or his representative. **(R)**

The private school may not charge a tuition rate higher than the maximum day class cost of education per pupil in New Jersey as determined by the commissioner with the approval of the state board. The school must file a statement noting that it is nonprofit and nonsectarian and its educational program complies with New Jersey law and regulations. **(L)**

All professionals must have certification in New Jersey or in the state in which they teach, or, in out-of-state schools only, must submit evidence of eligibility for New Jersey certification. **(R)**

For teachers with provisional certification, evidence must be submitted annually that the teachers have earned at least four credits toward full certification. **(R)**

The local board of education sending the child must establish a written contract with the nonpublic school for the school year or part of the school year during which the child is attending the school. **(L)**

Physical facilities are subject to annual approval by the county superintendent of the county in which the school is located or by an official representative of the state department. Facilities in another state may be approved by the appropriate agencies of the state or by a representative of the New Jersey state department. **(L)**

The nonpublic school must make student evaluation reports of progress and adjustment at regular intervals, but at least twice during the school year.

The sending district receives the pupil's attendance record at the end of the school year or upon request. The district must be notified if the child is taken out of the program or is absent for long periods of time for unusual reasons. **(R)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary (Certificate No. 6)

bachelor's degree completion of a state, nationally, or Northeastern States Compact approved program, or 3 years out-of-state experience on degree and out-of-state elementary certificate; or New Jersey certification in another field and preparation in elementary education, or studies program including professional education (24) and student teaching (150 clock hours)

Eligibility for Secondary (Certificate No. 7)

same as above with specialization hours

Eligibility for Special Education Certification (Certificate No. 9)

valid New Jersey teaching certificate (Certificate No. 6 or No. 7) bachelor's degree including specialization (18)

Eligibility for Special Certificate in Special Education

bachelor's degree plus professional education (30) including 18 in speciality and student teaching

FACILITIES

Boards of education are required to include in all plans and specifications for construction of public buildings facilities for the physically handicapped. State board regulations will prescribe the type, kind, and quality of these facilities including:

1. a principal entrance with an approved ramp access;
2. on floors occupied by students, at least one watercloset stall for each sex accessible to wheelchair pupils;
3. drinking fountains on each pupil occupied floor accessible to wheelchair pupils;
4. in multistory buildings, an elevator available for students in wheelchairs;
5. one working area in laboratory and shop facilities dimensioned for use by physically handicapped students; and
6. a public tel

STATE PROFILE

NEW MEXICO

February 15, 1974

The State-Federal Information Clearinghouse *
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The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "Provisions shall be made for the establishment and maintenance of a system of public schools which shall be open to all the children of the State and free from sectarian control and said schools shall always be conducted in English." **(Art. XII, Sec. 4, N. Mex. Const.) (L)**

"Every child of school age and of sufficient physical and mental ability shall be required to attend a public or other school during such period and for such time as may be prescribed by law." **(Art. XII, Sec. 5, N. Mex. Const.) (L)**

Compulsory Attendance Law: Children, who are six years old by January 1 of a school year and until they reach age 17, shall attend a public school, a private school maintaining approved courses of instruction, or a school conducted by a state institution. A child is specifically exempted from the provisions if he is physically or mentally incapable of attending the public schools. A local superintendent may excuse any resident child below age nine. **(Sec. 77-10-2 NMSA) (L)**

All persons having control of a blind child between the ages of five and 21 who cannot be educated in the public schools must send the child to the institute for the blind for at least seven years unless the child is taught in an approved private school, at home, or in a similar institution in another state or unless the child is suffering from a physical or mental disability which prevents him or her from attending the institute. Children under age five may be admitted into the institute. **(Sec. 72-23-3 NMSA) (L)**

Responsibilities: The state requires all districts over a five-year period to provide special education to meet the needs of all exceptional children. Each district is required to meet the educational needs of at least one-fifth of its eligible exceptional children during the sixty-first fiscal year; at least two-fifths of such children during the sixty-second; three-fifths during the sixty-third; and four-fifths during the sixty-fourth school fiscal year. See Finance. **(Sec. 77-11-3 NMSA) (L)**

"In providing equal learning opportunities for all children, the state, in our opinion, is required to offer equal educational opportunities all children in the state. Thus, children who qualify for special education are entitled to a free public school education." Handicapped children are also entitled to free textbooks and transportation as long as transportation and textbooks are offered to all other children. "The state's obligation is to provide equal educational opportunities to all children in the state, regardless of their physical or mental capacity." Section 77-11-3 outlines the procedure whereby educational facilities or training "may" be made available by school districts. These provisions are to be considered mandatory to meet the constitutional requirements. "State financial support". is a condition given in Section 77-11-3.2 for offering special education programs. This condition is not valid. In the past this phrase (state financial support) meant moneys earmarked for special education, but it now means "the total availability of state funds for free public education. . . ."
(Op. Att'y. Gen., December 22, 1971)

POPULATION

Definitions: "'Exceptional children' means children whose abilities render regular services of the public school to be inconsistent with their educational needs." **(Sec. 77-11-3.1 NMSA) (L)**

A deaf child is "a child with a hearing loss of no less than 60 decibels in both ears." **(R)**

A hard of hearing child is "a child with a hearing loss from 40 to 60 decibels in the better ear." **(R)**

A child with a hearing loss from 20 to 40 decibels in the better ear who should be able to function adequately in a regular class with the assistance of a speech pathologist." **(R)**

"A learning disabled student is a student who exhibits one or more deficits in the essential learning process to a degree that he requires special education. These deficits are in perception, conceptualization, language, memory, control, attention, impulse or motor function. These deficits may be demonstrated verbally or non-verbally. A discrepancy between expected and actual academic achievement is observable. This definition does not include students who exhibit learning problems which are primarily the result of visual, motor or hearing handicaps, of mental retardation, of emotional disturbance or environmental disadvantage." **(R)**

"A speech defect is any deviation of speech and language which is outside the range of acceptable variation in a given environment. In this usage, language refers to impaired language processes indicating a pathological deficit, and is not to be confused with problems of bilingualism." **(R)**

Age of Eligibility: Children are eligible to receive special education services beginning at legal school age (six years of age by January 1 of the school year) until they reach age 21. **(Sec. 77-11-3 NMSA) (L)**

The Board of Regents for the New Mexico School for the Deaf may not pay college expenses of a student if he or she is over 21 years of age. The Board of Regents have jurisdiction over children only between the ages of 5 and 21. **(Op. Att'y. Gen., January 5, 1953)**

To be counted in the membership of a school district, a handicapped child attending a non-profit training center must be six years of age by January 1, must not have graduated from high school and be enrolled in one-half or more of the minimum instruction; otherwise the school cannot be reimbursed.
(Op. Att'y. Gen., May 23, 1968)

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: Superintendents of all school districts, by August 1 and January 1 of each year, must report to the superintendent of the school for the blind all school age blind children who reside within their districts. The superintendent of the institute is then required to communicate to the parent, guardian, or person having control of the child, the provisions of this act. **(Sec. 73-23-5 NMSA) (L)**

Screening: All pupils, during their first year in New Mexico public schools are given hearing evaluations by an audiologist, speech pathologist or qualified registered nurse. After the first year, they may be referred by a school, county, or registered nurse for a hearing evaluation. **(R)**

Assessment and Placement: The department of education, with state board approval, is required to set the standards for diagnosis and screening and educational offerings for exceptional children. **(Sec. 77-11-3.2 NMSA) (L)**

Referrals are made by parents, teachers, principals, special education coordinators, counselors, physicians, and state agencies. **(R)**

The educational appraisal and review committee is a school-level committee composed of teacher, nurse, special education supervisor or coordinator, building principal, guidance counselor, school psychologist, and others directly providing services to the child whose duties are (1) review and study all assessment and evaluation information; (2) recommend placement in special education classes; (3) review each case annually; and (4) recommend readmission, dismissal, change of placement, or further diagnostic evaluations.

The evaluation includes a social and academic history of the pupil, as well as a general health examination including written reports on vision and hearing screening tests. According to the specific handicap, a psychological, language, and/or education diagnostic evaluation may be required. **(R)**

Children will be given special education services only after the following procedure has been followed: (1) the child meets standards of eligibility; (2) evaluation according to screening procedure; (3) recommendation is made by the Educational Appraisal and Review Committee; and (4) school district consults with and receives parents' consent. **(R)**

Placement involves knowledge of the following basic policies: (1) admittance to and maintenance in any special education program shall be on a trial basis; (2) an annual review of the appropriateness of each child's continued assignment; (3) all special education assignments must be reappraised with an individual psychological test a minimum of every three years; and (4) school districts shall not assign national origin minority group pupils to special education classes on the basis of criteria which was developed solely upon the command of the English language. **(R)**

ADMINISTRATIVE RESPONSIBILITY

Regulations and standards will be developed by the state board for the conduct of the special schools and classes of the public school system and in all institutions wholly or partly supported by the state. **(Sec. 77-11-3.1 NMSA) (L)**

Educable and trainable retarded children attending the New Mexico State Hospital may be counted in the average daily attendance of the Las Vegas School System if the program of instruction is approved by the State Board of Education and the provisions of the New Mexico Statutes, Chapter 73, are followed. **(Op. Att'y. Gen., October 29, 1965)**

The determination of whether a child is physically incapable or mentally incompetent to attend school is vested in the State Board of Education. **(Op. Att'y. Gen., December 22, 1971)**

PLANNING

The state board is required to adopt and keep current a state plan of special educational policy, programs, and standards. **(L)**

FINANCE

All programs for exceptional children must be approved by the state superintendent before any state funds may be distributed. **(Sec. 77-11-3.2 NMSA) (L)**

Financial aid to school districts and other public institutions for education or related services for exceptional children will be determined and paid in accordance with the rules and regulations of the department. The distribution for special education reimbursement is determined in the following manner:

1. Reimbursement for teachers in approved special education resource rooms will be equal to the appropriation unit for a specialist ($9,337);
2. Teacher reimbursement for all other special education classes is computed by multiplying one teacher per twelve special education pupils by the appropriate unit for a specialist ($9,337);
3. Supporting costs are determined as a percentage of teacher cost determined by numbers one and two for each school district with an approved program. The percentage of supporting cost will be determined by **Section 77-6-18.3, NMSA, 1953. (L)**

After approval by the state superintendent, distributions will be made by the chief for special education programs entered into between school districts. The state superintendent's approval and the chief's distribution are limited to reimbursement for certified, unreimbursed expenditures of approved programs. The allowable reimbursement is determined by this section and determinations of the chief. Programs eligible for approval and distribution are identified by standards and regulations of the department. Such programs must have been approved by the state superintendent and chief and certified by letter to the local superintendent prior to school district receipt of any funds. **(Sec. 77-6-19.2 NMSA) (L)**

When a handicapped child attends a non-profit training center, "the Chief of Public School Finance must count those students as non-handicapped studnets and their membership must be weighted pursuant to subsections A and B of Section 77-6-18, N.M.S.A., 1953 Compilation. Since mentally handicapped students cannot be classified as elementary, junior high, or high school students, they are given the average weighing factor of the school district to which the distribution is made." **(Op. Att'y. Gen., May 28, 1968, and March 4, 1968)**

One institution may not pay for its personnel to be sent to another institution to teach them how to communicate with a child who they are sending there. **(Op. Att'y. Gen., May 23, 1955)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

With the approval of the state superintendent, a school district may contract with another school district to educate or train handicapped children. The agreement will provide for the payment of the special education facilities or services provided. **(L)**

SERVICES

" 'Special education' means the provision of services additional to, supplementary with, or different from those provided in the regular school program by a systematic modification and adaptation of instructional techniques, materials, and equipment to meet the needs of exceptional children." **(Sec. 77-11-3.1 NMSA) (L)**

Speech Impaired: "Suggested Types of Program: a) Individual (at the discretion of the speech pathologist); b) Itinerant Program (generally for the less severe speech impaired); c) Resource Room (generally for the moderately to mildly speech impaired) Group with total to be determined by speech pathologist and the Educational Appraisal and Review Committee, based on speech problem and number of children affected; and d) Cooperative or Joint Agreement Program (for two or more school districts contracting with each other for part or all services for handicapped children)." **(R)**

Deaf and Hard of Hearing: "Suggested Types of Program: a) Self-contained class program: (1) Ratio of one teacher to no more than six students, (2) Evaluation and diagnosis for program placement through professional and consultive support; and (3) An attempt should be made to integrate all children in all the normal activities in school, i.e., P.E., music, art, library, lunch, etc.; b) Special class with integration: (1) Ratio of one teacher to no more than eight students; and (2) One-half (2½ hours) each day in regular class and one-half (2½ hours) each day in special class (this approach suggested for children over 10 years of age); c) Resource room program: (1) Class size dependent upon severity; and (2) Diagnosis and evaluation for hearing handicapped and consultation with classroom teacher; d) Itinerant program: (1) Itinerant teacher diagnoses and evaluates and consults with regular classroom teacher; and (2) Program suggested for mild hearing losses; e) Cooperative or joint agreement program (for two or more school districts contracting with each other for part or all services for exceptional children); and f) Innovative programming (special approaches approved by the State Division of Special Education)." **(R)**

Class Size:	**NUMBER OF PUPILS**	
	Minimum	**Maximum**
LEARNING DISABLED		
Special Class	5	15
Resource Program	5	8
Itinerant Program (Class Size)	--	8
Itinerant Program (Daily Caseload)	--	25-30 (generally for less severely LD children.)
DEAF & HARD OF HEARING		
Special Class (Self-contained)	5	6
Special Class (with integration)	5	8
Resource Program	--	-- (depends upon severity of handicap)
SPEECH IMPAIRED		
Speech Therapist (caseload)	80	--
Speech Therapist (part-time, caseload)	--	79
EDUCABLE MENTALLY HANDICAPPED		
Special Class	5	15
Part-time Instructor	--	5
Special Class - Primary Grades	12[1]	12[1]
Special Class - Elementary Grades	16[1]	16[1]
Resource Teacher (Daily Caseload)	--	24-30
TRAINABLE MENTALLY HANDICAPPED		
Special Class	5	10
EMOTIONALLY DISTURBED		
Special Class	5	15
Resource Program (Class size)	--	8
Resource Program (Daily caseload)	--	25-30

[1] approximate class size

Children at the New Mexico School for the Deaf are entitled to free textbooks.

PRIVATE

The responsibility of school districts and state institutions to provide exceptional children with a free public education is not diminished by the availability of private schools and services. If such schools and services are utilized, the state continues to be responsible to assure that all exceptional children receive the education to which the laws of the state entitle them. School boards may make agreements with nonsectarian, nonprofit, educational training centers to educate exceptional children and provide payment for this education. Such payments will be made by the local board from the basic distribution and any other available funds. All agreements between local boards and nonsectarian, nonprofit, educational training centers must be approved by the state superintendent. Agreements must provide for diagnosis and an educational program for each child meeting the state standards. The agreements must also acknowledge the authority and responsibility of the local board and the department to conduct on-site evaluations of programs and pupil progress to ensure meeting state standards.

Children attending such training centers will be counted in the district membership on the same basis as regular students. The distribution will be made to the school district purchasing the services from the nonprofit training centers from the appropriation for the basic program distribution. **(Sec. 77-11-3.2 NMSA) (L)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Provisional Elementary Certificate (Certificate No. 3)
valid grades 1-8: bachelor's degree: general education (48), elementary education (24), specialization area (24), student teaching (6), professional education (18), institutional recommendation

Eligibility for Provisional Secondary Certificate (Certificate No. 6)
valid grades 7-12: bachelor's degree: general education (48), professional education (12), student teaching (6), specialization (48-60), institutional recommendation

Eligibility for Special Education Certificate (Certificate No. 12)
valid grades K -12: eligibility for Certificate No. 3 or No. 6, bachelor's degree including special education (24 for major), student teaching in special education (6)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

The Los Lumos Hospital and Training School may participate with the New Mexico Association for Retarded Children in the establishment of a camp for mentally retarded children in which the facilities of the hospital and training school will be used. **(Op. Att'y. Gen., May 7, 1963)**

STATE PROFILE

NEW YORK

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

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RIGHT TO AN EDUCATION

Constitution: "The legislature shall provide for the maintenance and support of the system of free common schools, wherein all the children of this state may be educated." **(Sec. 1, N.Y. Const.) (L)**

Compulsory Attendance Law: Children between the ages of seven and 16 and who are in a proper mental and physical condition are subject to the compulsory education requirement. **(Sec. 3205 N.Y. Stats.) (L)**

A minor whose mental and physical condition is such that attendance at school endangers his health and safety or that of other children or who is "feeble-minded" to the extent that he is unable to benefit from instruction is not permitted to attend school.

A child whose mental or physical condition is such that he does not attend school, due to the lack of facilities for his care, transportation, and instruction, will be permitted to attend school when the lacking facilities are provided. If prohibited from attending school due to a physical condition which could be remedied by reasonable measures, the child may only be temporarily excluded from school. The determination of a physical or mental condition will be based only upon an actual examination of the child by a person qualified by appropriate training and experience in accordance with state and district requirements. The state education department will designate the person having the required qualifications to make a mental or physical examination in behalf of any local school authorities, but in a city with a population of 100,000 or more the superintendent will designate the person. **(Sec. 3208 NY Stats.) (L)**

Responsibilities: "2.a. The board of education of each city and of each union free school district shall be required to furnish suitable education facilities for handicapped children by means of home-teaching, transportation to school or by special classes. The need of the individual child shall determine which of such services shall be rendered. Where there are 10 or more handicapped children who can be grouped homogeneously in the same classroom for instructional purposes, such board shall establish such special classes as may be necessary to provide instruction adapted to the mental attainments and physical conditions of such children.

"b. Provided, however, that in each city or union free school district in which schools for handicapped children exist or may hereafter be established, which are incorporated under the laws of the state and are found by the board of education to be adequate to provide instruction adapted to the mental attainments and physical conditions of such children, the board of education shall not be required to supply additional special classes for the children so provided for. The boards of education of such cities or union free school districts are hereby authorized and empowered to contract with such schools for the education of such children in special classes therein.

"3. The board of education or board of trustees of each school district which contains less than 10 handicapped children shall have power to furnish suitable educational facilities for such children by means of home-teaching or transportation to school. The needs of the individual child shall determine which of such services shall be rendered. Such board is also authorized and empowered to contract with the board of education of another school district, a board of cooperative educational services, or a vocational education and extension board of a county for the education of such children in special classes organized in the schools of such district, of such board of cooperative educational services or of such vocational education and extension board with which such contract is made.

"4. The board of education of each school district in which there are 10 or more handicapped children who can be grouped homogeneously in the same classroom for instructional purposes shall establish such special classes as may be necessary to provide instruction adapted to the mental attainments of such children from their fifth birthday until the end of the school year during which they attain their 21st birthday, or shall contract with the board of education of another school district, a board of cooperative educational services, or a vocational education and extension board for the education of such children, under regulations to be established by the commissioner of education."

"...5-a The provisions of subdivision four of this section shall apply only to children having intelligence quotients of not less than 50.

"6. The board of education or trustees of each school district in which there are 10 or more delinquent children shall establish such special classes as may be necessary to provide instruction adapted to the capabilities of such children under rules to be established by the commissioner of education.

"7. The board of education of each union free, central or city school district in which there are 10 or more non-English speaking children may establish such special classes as may be necessary to provide instruction adapted to such children under rules to be established by the commissioner of education." **(Sec. 4404 NY Stats) (L)**

"Special classes for certain handicapped children. 1. Notwithstanding any other provision of the law, the board of education or the board of trustees of each school district in which there are eight or more handicapped children with retarded mental development having intelligence quotients of less than 50 shall have power and it shall be their duty, except as hereinafter provided in subdivision two of this section, to establish such special classes as may be necessary to provide instruction and training adapted to the mental attainments of such children under regulations to be established by the commissioner of education.

"2. The board of education or the board of trustees of any school district which contains less than eight handicapped children with retarded mental development having intelligence quotients of less than 50, and with the approval of the commissioner of education, any such board in any school district which contains eight or more but less than 20 such children shall have the power and it shall be their duty to contract with the board of education of another school district, a board of cooperative educational services or a vocational education and extension board of a county for the instruction and training of such children." **(Sec. 4406 NY Stats.) (L)**

The state education department shall have the power and duty to provide within the limits of the appropriations made therefor, home-teaching, transportation, scholarships in non-residence schools, tuition or maintenance and tuition in elementary, secondary, higher, special and technical schools, for handicapped children in whole or in part from funds of the department, when not otherwise provided by parents, guardians, local authorities or by other sources, public or private. When the family court, or the board of education of the city of New York, shall issue an order to provide for the education, including home-teaching, transportation, scholarships, tuition or maintenance, of any handicapped child, the commissioner of education, if he approves such order, shall issue a certificate of such effect in duplicate, one of which shall be filed with the clerk of the board of supervisors or other governing elective body of the county or chief fiscal officer of a city and one in the office of the commissioner of education. **(Sec. 4403 NY Stats.) (L)**

Section 567 of the Education Law for the State of New York provides that any person between the ages of 5-21 is entitled to attend public school in the person's home district without paying tuition. Section 624 states, however, that compulsory attendance is only required if the person is "in proper physical and mental condition." The State Department of Education will make a ruling if there is a question as to the physical and/or mental condition. **(Op. Att'y. Gen., July 15, 1942)**

"When a child who is a mental defective or who is physically handicapped, is committed to a hospital or other institution by a judge of Children's Court, neither the parents nor any other person have the right to remove such child without the consent of the judge of Children's Court who committed the child." **(Op. Att'y. Gen., October 3, 1933)**

"Pursuant to Article XXII, § 4 of the Constitution, the legislature has placed responsibility for care and treatment of the mentally ill and mentally defective on State and local authorities. The Department of Mental Hygiene, in emergency conditions, may transfer, discharge and may, to prevent overcrowding and unwholesome conditions, close a state school to additional admissions." **(Op. Att'y. Gen., January 31, 1944)**

Reid v. Board of Education of the City of New York is a class action suit brought on behalf of brain-injured children in New York. The defendant is the New York Board of Education. Plaintiffs allege undue delays in screening and placing these children, placement denial in special classes, and a violation of state statutory and constitutional rights and 14th amendment guarantees. Appropriate special class placement is sought for plaintiffs. On June 22, 1971, defendant's motion to dismiss was granted. At that time it was claimed unnecessary to go to federal courts since there was no charge of deliberate discrimination. On December 14, 1971, however, Court of Appeals decided federal jurisdiction should have been retained pending determination of state's claims in New York courts. Administrative Procedure before the state Commissioner of Education was heard on January 16, 1973. An investigation of school district for summer of 1973 was ordered. This investigation substantiated plaintiffs' charges and also disclosed existence of a "Medical Discharge Register".

Eleven-year old Peter Held is the plaintiff and the defendant is the Mt. Vernon Public Schools in the lawsuit *In Re Held*. It is alleged that during the three years plaintiff spent in public special education programs, he made no progress. However when plaintiff was placed in a private school, he became a class leader. This case was filed in Family Court on November 29, 1971, and the decision was rendered the same day. The judge declared that since plaintiff was succeeding in private placement where he did not in public school, he should remain there at public expense.

POPULATION

Definitions: A "handicapped child is one who, because of mental, and/or physical, and/or emotional reasons, is not benefiting or cannot be expected to benefit from regular classroom instruction, but who can benefit from special services and programs which include, but are not limited to, transportation; home teaching; special classes, special teachers; pupil personnel services; resource rooms or other special facilities; and/or those services, facilities, or programs which can be obtained through the payment of tuition to boards of cooperative educational services, vocational educational and extension boards, public school districts, or other state education department approved agencies." **(Sec. 4401 NY Stats.) (L)**

"A mental reason means a condition which impairs or limits the child's intellectual functioning."

"A physical reason means a condition which incapacitates the child and includes orthopedic, visual, auditory, neurological, cardiac and other medical conditions which result in inability to benefit from the regular educational programs for non-handicapped children, i.e., without some form(s) of special provision."

"An emotional reason means a condition of psycho-social origin leading to behavior which interferes with the child's ability to adjust to and benefit from existing regular class programs." **(R)**

"Children handicapped because of problems in learning refers to those with specific learning disabilities, aphasia or perceptual handicaps." **(R)**

Age of Eligibility: Children are eligible for special education services from their fifth birthday until the end of the school year during which they become 21. **(L)**

The Children's Court Act, which defines physically handicapped children, does so to the exclusion of deaf and blind children. The Attorney General stated that "a partially deaf child may be regarded as a physically handicapped child and may receive benefits which the state requires to be given to such afflicted children." **(Op. Att'y. Gen. 54, State Dept. 17, 1935)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: "The board of education or trustees of each school district shall ascertain under regulations prescribed by the commissioner of education and approved by the regents of the university, the number of handicapped children in such district under the age of 21 years." **(Sec. 4404 NY Stats.) (L)**

The legislature finds and declares that the establishment of a mandatory learning impediment screening program which will enable school districts to detect quickly and accurately the presence of handicaps likely to impede the learning process in individual children at the earliest possible point during their schooling is an essential first step toward realizing its goal of maximizing the educational opportunities of all children in the state of New York.

The commissioner of education shall direct every school district and board of cooperative educational services to inform him in writing, not later than January 1, 1974, whether tests to detect the presence of handicaps which would impede the learning process in any way are administered to all children, or to what percentage of children, under what circumstances, and at what point of time during their schooling. Every school district and BOCES shall also be directed by the commissioner of education to inform him, at the same time, of the name(s) of the screening test(s) employed for the initial screening of children and whether they include evaluations of a child's general behavior, motor and sensory integration, laterality and directionality, visual and auditory perception and acuity, conceptual skills, language development and previous academic experience.
(N.Y. Ed. Law, Sec. 4408)

Assessment and Placement: "The board of education of each school district shall cause suitable examinations to be made to ascertain the physical, mental, and social causes of such failures or 'under-achievement' of every pupil in a public school, not attending a special class, who has failed continuously in his studies or is listed as an "underachiever". Such examinations shall be made in such manner and at such times as shall be established by the commissioner of education, to determine if such a child is incapable of benefiting through ordinary classroom instruction, and whether such child may be expected to profit from special educational facilities. The commissioner of education shall prescribe such reasonable rules and regulations as he may deem necessary to carry out the provisions of this paragraph." **(Sec. 4404 NY Stats.) (L)**

Each school district must provide for each handicapped child a physical examination consistent with the provisions of Section 904 of the Education Law, an individual psychological examination by an approved psychologist, social history, and other suitable examinations and evaluations as necessary to ascertain the physical, mental and emotional factors which contribute to the handicapping condition. Any other material pertinent to the child's learning characteristics must be reviewed and evaluated. **(R)**

An individual psychological examination means a comprehensive process by which an approved psychologist uses a variety of psychological tools and techniques to study and describe a pupil's developmental, learning, behavioral and other personality characteristics for the purpose of education planning. **(R)**

Each school district must establish and maintain a committee, or contract with a board of cooperative educational services to secure the assistance of such a committee, to include a qualified school psychologist, a teacher or administrator of special education, a school physician and other responsible school authorities designated by the chief school officer, whose responsibility it is to review and evaluate, at least annually, the status of each pupil within the school district who is designated "handicapped." The district shall file annually with the commissioner of education, the names and qualifications of the members of such committee. This committee must also:

1. review and evaluate all relevant information pertinent to each handicapped child, including the results of physical and psychological examinations and other suitable evaluations and examinations as necessary to ascertain the physical, mental, emotional, and cultural-educational factors which may contribute to the handicapping condition, and all other school data which bear on the pupil's progress.
2. make recommendations to the chief school officer or his designated subordinate as to appropriate educational programs and placement, and as to the advisability of continuation, modification, or termination of special class or program placements.
3. determine the frequency and nature of periodic re-evaluations of handicapped pupils by appropriate specialists, with the provision that each child in a special program or special class be re-examined by a qualified school psychologist at least once every three years. Upon application and justification, approval may be granted for variance.
4. make, or have made, periodic evaluations of the adequacy of programs, services and facilities for handicapped children.
5. report periodically, but at least annually, to the chief school officer, who shall transmit such report to the state education department, the status of each handicapped child and the status of programs, services, and facilities made available by the school district.

A pupil must not be excluded from special classes in public school programs unless it is determined after appropriate evaluation, which may include a reasonable opportunity to be observed in the classroom, that said pupil has insufficient mental development, physical maturation, social maturity or emotional stability to benefit from the program offered by such classes. **(R)**

Upon request by the parent or guardian of an exempted pupil, reconsideration concerning the admission or nonadmission of the child must be entertained by school authorities at least once a year. **(R)**

ADMINISTRATIVE RESPONSIBILITY

"The state education department shall have power and it shall be its duty: 1. to maintain a register of handicapped children and to use all means and measures necessary to adequately meet the physical and educational needs of such children, as provided by law; 2. to stimulate all private and public efforts designed to relieve, care for, cure or educate handicapped children and to coordinate such efforts with the work and function of governmental agencies; and 3. to formulate such rules and regulations pertaining to the physical and educational needs of such children as the commissioner of education shall deem to be in their best interests." **(Sec. 4402 NY Stats.) (L)**

The New York State School for the Deaf is under the jurisdiction and control of the education department. **(Sec 4351 NY Stats.) (L)**

Under the Children's Court Act, 1930, the Children's Court in each county has exclusive original jurisdiction over physically handicapped children residing there. **(Op. Att'y. Gen., March 15, 1934)**

"A superintendent of a State school may refuse to accept a patient under school age if he feels that custodial care such as is furnished by his institution is not necessary for the welfare of the patient or of the community, upon the ground that he is not a mental defective within the meaning of the mental hygiene law." The only exception is when the preschooler is considered dangerous and the child must be accepted by the superintendent regardless of age. There is no age limit if the superintendent feels that the child is a mental defective and should be admitted. **(Op. Att'y. Gen., October 5, 1943)**

"A judge of the Children's Court has the authority to certify mental defectives to State Schools, and that authority is not limited to children of the age of sixteen years or younger." He has the power to commit.
(Ops. Att'y. Gen., May 3, 1945; January 31, 1944; May 19, 1933; and June 23, 1938)

The judge of Children's Court can, however, only commit a mental defective to a state school. No committment can be made to a state hospital for the insane. However, committment can be made to a state hospital for observation if the department of Mental Hygiene cooperates. **(Op. Att'y. Gen., January 31, 1944)**

"Pursuant to the 1951 act, which establishes a girls' term in the Magistrate's court of the City of New York, that court is authroized to commit mental defectives to State schools. To the extent that the law differs from or contravenes earlier statutes, including Mental Hygiene Law, § 121, it must be deemed controlling."
(Op. Att'y. Gen., May 21, 1951)

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

One-half of the cost of providing home-teaching, transportation, scholarships in non-residence schools, tuition and maintenance, as provided in subdivision one of this section, as certified by the commissioner of education, is hereby made a charge against the county or city in which any such handicapped child resides, and the remaining one-half of the cost thereof shall be paid by the state out of moneys appropriated therefor. All claims for services rendered and for supplies furnished and for other expenses incurred in providing such home-teaching, transportation, scholarships and tuition, shall be paid in the first instances by the board of supervisors or other governing elective body of the county or chief fiscal officer of a city in which such handicapped child resides, upon vouchers presented and audited in the same manner as in the case of other claims against the county or city. **(Sec. 4403 NY Stats.) (L)**

The legislature shall appropriate amount sufficient to pay one-half of all the claims paid by a county or city for the purposes and in the manner herein specified. The clerk of the board of supervisors or other governing elective body of each county or chief fiscal officer of a city of the state which has paid claims as provided herein shall, not oftener than once in each month, transmit to the commissioner of education a certified statement in the form prescribed by him, stating the amount expended for the purposes specified herein, the date of each expenditure, and the purposes for which it was made. Upon the receipt of such certified statement the commissioner of education shall examine the same, and if such expenditures were made as required by law he shall approve it and transmit it to the comptroller for audit. The comptroller shall thereupon issue his warrant in the amount specified in such approved statement for the payment thereof out of moneys appropriated therefor to the county treasurer of the county or chief fiscal officer of a city by which such payments were made. **(Sec. 4403 NY Stats.) (L)**

1. State financial assistance to school districts under the provisions of this section shall be limited to reimburse ment for expenditures for approved special classes for children as defined in section 4401 of this article and to reimbursement for the cost of salaries of: (1) approved special teachers for the handicapped children con fined to the home, a hospital or other institution; of (2) approved special teachers assisting regular classroom teachers in providing educational services for non-English speaking or handicapped children in regular classes of (3) approved special teachers assigned to working with parents or guardians in the case of non-English speaking children; and of (4) approved psychologists. **(Sec. 4405 NY Stats.) (L)**
2. School districts providing instructional services to children as defined in section 4401 shall be reimbursed during any school year for the excess of the cost of such instructional services during the preceding school year, over the equalization base allowable for such pupils pursuant to sections 3602 and 3602(a) of this chapter for such preceding school year, provided, however, that such reimbursement may not be greater in any event than the amount of $14.25 multiplied by the total weighted average daily attendance of such dis trict as used in the computation of the apportionment to such district for such preceding school year pursuant to such sections 3602 and 3602(a). Subject to such limitation, the costs reimbursable under this subdivision shall be computed as follows:
   a. In computing a reimbursement to a district for the cost of special classes under this section, the total average daily attendance of all special class pupils shall be divided by the total number of approved spe cial class teachers. The result of such division shall then be deducted from 25 and the result shall there upon be multiplied first by the total number of special classes operated by the district and second by $330.
   b. In computing a reimbursement to a district for the cost of salaries of special teachers, the actual salary of all approved full-time special teachers rendering instructional services to children as defined in section 4401 shall be counted, not, however, to exceed the sum of the maximum salaries in the official salary schedules for the school district for each such teacher. Teachers assigned to a regular or special class shall not be counted in such computation. Where a teacher renders instructional services to such pupils on a part-time basis only, the proportionate share of his salary shall be so counted, except that the total salary of a part-time special teacher who renders no other services in the district shall be so counted.
   c. In computing a reimbursement to a district for the costs of salaries of psychologists, the actual salary of all approved full time psychologists rendering services to children, as defined in section 4401, shall be counted. Where a psychologist renders services to such pupils on a part time basis only, the propor tionate share of his salary shall be so counted except that the total salary of a part time psychologist who renders no other service in the district shall be so counted.
3. Where a school district contracts with another school district for the provision of such instructional services to such pupils, the amount of the contract or tuition charges therefor shall be counted in the computation of the cost of such instructional services for the purpose of subdivision two of this section.
4. The consent of the commissioner shall be required for the establishment and maintenance of a special class containing less than 10 such pupils.
5. If a school district having less than 10 handicapped children contracts with a board of cooperative educational services or a county-vocational education and extension board, the cost of such contract shall, if approved by the commissioner, be counted for the computation of state financial assistance under the provisions of this section, provided, however, that in such case the cost of such services shall be excluded in the computation of state aid payable to the board of cooperative educational services pursuant to section 1958 of this chapter, or to the county vocational education and extension board pursuant to section 1104 of this chapter. The pro visions of this subdivision shall apply irrespective of whether the school district making such contract is a component district of the board of cooperative educational services.
6. A school district providing transportation for handicapped children shall be reimbursed by the state pursuant to section 3602 of this chapter for such services to the extent of the cost of such transportation for such reasonable distance as the commissioner may prescribe, whether or not the actual transportation furnished shall exceed such reasonable distance.
7. No expenses incurred by a school district for the purposes of this section shall be considered in determining any other state aid under this chapter.
8. The services for which reimbursement shall be allowed shall be limited to those provided for by regulations which the commissioner shall establish.
9. Whenever instructional services are provided for handicapped children through a two-way telephone com munication system, the pupils so instructed shall be counted as pupils in daily attendance for the purposes of section 3602 of this chapter. **(Sec. 4405 NY Stats.) (L)**

"County school districts may establish and operate special education units, including classes for blind, deaf,

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

At the request of component school districts, and with the approval of the commissioner of education, districts provide any of the following services on a cooperative basis: school nurse, teacher, attendance supervisor, supervisor of teachers, dental hygenist, psychologist, teachers of art, music, physical education, vocation subject, guidance counselors, operation of special classes for handicapped children, (as such term is defined in article 89) of this chapter, pupil and financial accounting service by means of mechanical equipment; maintenance and operation of cafeteria or restaurant service for the use of pupils and teachers while at school, and such other services as the commissioner of education may approve. Request for such services shall be filed by component school districts with the board of cooperative educational services not later than the first day of February of each year. The board of cooperative educational services must submit its program to the department for approval not later than the 15th day of February of each year. Such board shall, through its executive officer, notify each component school district on or before the 15th day of March concerning the services which have been approved by the commissioner to be made available for the ensuing school year. Each component school district must on or before the first day of April following such notification notify the board of cooperative educational services of its intention to participate or not to participate in such shared services and the specific services which such district elects to utilize. Notwithstanding the provisions of paragraph b of this subdivision, any component school district which does not elect to participate in any such specific cooperative services authorized under this paragraph shall not be required to pay any share of the moneys provided in the budget as salaries of teachers employed in providing such service, for equipment and supplies for such service, or for transportation of pupils to and from the place where such service is maintained **(L)**

A board of cooperative educational services may allocate the cost of such services to component school districts in accordance with terms agreed upon between such board and boards of education and trustees of local school districts. **(L)**

SERVICES

"Procedure through family court; cost of educational **services**. 1. The state education department shall have the power and duty to provide within the limits of the appropriations made therefor home-teaching, transportation, scholarships in non-residence schools, tuition or maintenance in elementary, secondary, higher, special and technical schools, for handicapped children in whole or in part from funds of the department, when not otherwise provided by parents, guardian, local authorities or by other sources, public or private. When the family court, or the board of education of the city of New York, shall issue an order to provide for the education, including home-teaching, transportation, scholarships, tuition or maintenance of any handicapped child, the commissioner of education, if he approves such order, shall issue a certificate to such effect in duplicate, one of which shall be filed with the clerk of the board of supervisors or other governing elective body of the county or chief officer of a city and one in the office of the commissioner of education."

"2. One-half of the cost of providing home teaching, transportation, scholarships in non-residence schools, tuition and maintenance as provided in subdivision one of this section, as certified by the commissioner of education, is hereby made a charge against the county or city in which any such handicapped child resides, and the remaining one-half of the cost thereof shall be paid by the state out of moneys appropriated therefor. All claims for services rendered and for supplies furnished and for other expenses incurred in providing such home-teaching, transportation, scholarships and tuition, shall be paid in the first instance by the board of supervisors or other governing elective body of the county or chief fiscal officer of a city in which such handicapped child resides, upon vouchers presented and audited in the same manner as in the case of other claims against the county or city.

"3. The legislature shall appropriate an amount sufficient to pay one-half of all the claims paid by a county or city for the purposes and in the manner herein specified. The clerk of the board of supervisors or other governing elective body of each county or chief fiscal officer of a city of the state which has paid claims as provided herein shall, not oftener than once in each month, transmit to the commissioner of education a certified statement in the form prescribed by him, stating the amount expended for the purposes specified herein, the date of each expenditure, and the purpose for which it was made. Upon the receipt of such certified statement the commissioner of education shall examine the same, and if such expenditures were made as required by law he shall approve it and transmit it to the comptroller for audit. The comptroller shall thereupon issue his warrant in the amount specified in such approved statement for the payment thereof out of moneys appropriated therefor to the county treasurer of the county or chief fiscal officer of a city by which such payments were made." **(Sec. 4403 NY Stats.) (L)**

"1. The following institutions for the instruction of the deaf and of the blind shall be subject to the visitation of the Commissioner of Education.

a. The New York School for the Deaf.
b. The Lexington School for the Deaf.
c. St. Mary's School for the Deaf in the City of Buffalo;
d. New York State School for the Deaf;
e. St. Joseph's School for the Deaf in the City of New York;
f. Rochester School for the Deaf in the City of Rochester;
g. New York State School for the Blind in the City of Batavia;
h. New York Institute for the Education of the Blind in the City of New York;
i. Lavelle School for the Blind in the City of New York;
j. Mill Neck Manor School for the Deaf in Nassau County;
k. St. Francis De Sales School for the Deaf and Hard of Hearing;
l. Clearly Deaf Center, Inc. in the County of Suffolk.

"2. It shall be the duty of the Commissioner.

"a. To inquire into the organization of the several schools and the methods of instruction employed therein.

"b. To prescribe courses of study and methods of instruction that will meet the requirements of the state for the education of state pupils.

"c. To make appointments of pupils to the several schools; to transfer such pupils from one school to another as circumstances may require; to cancel appointments for sufficient reason.

"d. To ascertain by a comparison with other similar institutions whether any improvements in instruction and discipline can be made, and for that purpose to appoint from time to time suitable persons to visit the schools.

"e. To suggest to the directors of such institutions and to the legislature such improvements as he shall deem expedient.

"f. To make an annual report to the legislature on all of the matters enumerated in this subdivision and particularly as to the condition of the schools, the improvement of the pupils, and their treatment in respect to board and lodging." **(Sec. 4201 NY Stats.) (L)**

"1. All children who are both blind and deaf or both blind and cerebral palsied shall be admitted as state pupils into one of the institutions described in this article for the instruction of the deaf or blind and under the same conditions of eligibility as are provided for the admission of deaf or blind state pupils. The rate per capita allowed for such blind and deaf and blind and cerebral palsied state pupils shall be not less than double the annual rate per capital allowed for state pupils who are deaf or blind, and shall be paid in the same manner as prescribed for deaf state pupils.

"2. In the discretion of the Commissioner of Education a sum not to exceed that provided in paragraph 1 of this section for the instruction of a deaf and blind child within the state shall be available in the manner provided in Section 4201 of this article to aid a blind and deaf pupil in receiving instruction in an institution for the instruction of the deaf or blind located outside the state, in order to continue the education of such blind and deaf pupil for the term of instruction provided in Section 4207 of this article." **(Sec. 4209 NY Stats.) (L)**

"1. Whenever a blind or deaf person, who is a citizen of this state and a pupil in actual attendance at a college, university, technical or professional school, including agriculture and technical institutes and state institutes of applied arts and sciences, located in this state and authorized by law to grant degrees, other than an institution established for the regular instruction of the blind or deaf, shall be designated by the trustees thereof as a fit person to receive the aid hereinafter provided for, there shall be paid by the state for the use of such blind pupil from textbooks and pamphlets used by such pupil in his studies at such college, university or school, or to aid a deaf student in receiving instruction in such studies. In case such a college, university technical or professional school as will meet the needs or requirements of such a pupil is not located within this state, such sum of $500 shall be paid for the use of such pupil to such a college, university, technical or professional school which shall conform to the requirements of this section in another state, while such pupil is attending thereat. Such sum of $400 per annum shall also be available to aid a deaf student in receiving instruction in a regularly approved institution for the deaf located outside of the state but within 150 miles of the borders thereof.

"2. Such money shall be paid annually, after the beginning of the school year of such institution, by the Commissioner of Taxation and Finance on the warrant of the Comptroller, to the treasurer of such institution, which account shall be verified by the president of the institution and accompanied by his certificate that the trustees have recommended the pupils named in said account as hereinbefore provided.

"3. The trustees of any of the said institutions shall recommend no blind or deaf person, who is not regularly matriculated, and who is not in good and regular standing, and who is not working for a degree from the institution in which he is matriculated; and no blind or deaf person shall be recommended, who is not doing the work regularly prescribed by the institution for the degree for which he is a candidate. The moneys so paid to any such institution shall be disbursed for the purposes aforesaid by and under the direction of its board of trustees." **(Sec. 4210 NY Stats.) (L)**

"The board of education or the board of trustees of each school district shall provide suitable transportation to and from special classes as outlined in subdivision four of this section or section 4406 of this article, as determined by the need of the individual pupil. Such transportation, when provided pursuant to this subdivision, shall be granted to all such children irrespective of the school they legally attend." **(Sec. 4404 NY Stats.) (L)**

The state department of education has the power and duty to provide transportation within the limits of appropriations, when it is not otherwise provided under family court. **(Sec. 4403 NY Stats.) (L)**

The board of education or the board of trustees of each school district shall provide suitable transportation to and from special classes as outlined in subdivision four of this section, or section 4406 of this article, as determined by the need of the individual pupil. Such transportation, when provided pursuant to this subdivision, shall be granted to all such children irrespective of the school they legally attend. **(Sec. 4404 NY Stats.) (L)**

Class Size:

	NUMBER OF PUPILS	
	Minimum	Maximum
EDUCABLE MENTALLY HANDICAPPED		
Special Class - Elementary	--	15
Special Class - Secondary	--	18
TRAINABLE MENTALLY HANDICAPPED		
Special Class -- Children under 12 years of age	--	10
Special Class -- Children over 12 years of age	--	12
PHYSICALLY HANDICAPPED		
Special Class (Orthopedically Handicapped) - Elementary	--	10
Special Class (Orthopedically Handicapped) - Secondary	--	15
EMOTIONALLY DISTURBED		
Special Class	--	10
LEARNING DISABLED		
Special Class	--[1]	--[1]
MULTIPLY HANDICAPPED		
Special Class	--[1]	--[1]
BLIND		
Special Class - Elementary	--	10
Special Class - Secondary	--	15
DEAF		
Special Class - Elementary	--	10
Special Class - Secondary	--	15

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[1] Class size based on needs of children.

Special teachers provide supplementary specialized instruction for handicapped children who spend most of the school day in regular class or special class programs. Special teachers who provide this supplementary instruction include, but are not limited to, the following:

1. Speech and hearing teachers who provide remedial speech instruction to children with speech problems.
2. Special teachers who provide perceptual training and remediation in areas of learning deficit. Such services are rendered to children with brain damage and children who are emotionally disturbed.
3. Itinerant teachers who serve children with moderately severe hearing loss and provide instruction in such areas as auditory training, speech reading, language and speech development, and tutorial assistance when needed.
4. Teachers who provide instruction and/or training in specialized curriculum areas such as physical education, music, art, home economics, industrial and occupational education.
5. Crisis teachers who provide emotionally handicapped children with individual assistance during their periods of emotional reaction. They provide additional instructional assistance in such areas as visual and auditory perception, physical coordination, language and speech development, and tutorial assistance when needed.

Special class programs may be established for children with learning disabilities, aphasia, or perceptual handicaps. **(R)**

If a Children's Court judge places the responsibility of maintenance, education and treatment of a handicapped child upon a county (see Finance), the county can be reimbursed from the state for half of such costs under the Education Laws. **Ops. Att'y Gen. (July 23, 1938; 1940; March 24, 1942; and April 21, 1945)**

PRIVATE

"1. When it shall appear to the satisfaction of the department that a handicapped child, who in the judgment of the department can reasonably be expected to benefit from instruction, is not receiving such instruction because there are no adequate public facilities for instruction of such a child within this state because of the unusual type of the handicap or combination of handicaps, the department is authorized to contract with an educational facility located within or without the state, which in the judgment of the department, can meet the needs of such child, for instruction of such child in such educational facility, and the department is further authorized to expend for such purpose a sum of not to exceed $2,000 per annum for each such pupil.

"2. The school district of which such a child is a resident at the time of admission to such an educational facility shall be required to reimburse the state on account of any expenditure made by the state for such child pursuant to subdivision one of this section in an amount equal to the difference between the per pupil amount expended by such district for operating expenses as defined in paragraph a of subdivision five of section 3602 of this chapter or the limitation on such operating expense as provided by paragraph b of such subdivision, whichever is lesser, and the per pupil aid computed in accordance with paragraph f of such subdivision. The comptroller may deduct from any state funds which become due to a school district an amount equal to the reimbursement required to be made by such school district in accordance with this subdivision, and the amount so deducted shall not be included in the operating expense of such district for the purposes of computing the apportionment for operating expense pursuant to subdivision five of section 3602 of this chapter.

"3. The state education department shall maintain a register of such educational facilities which, after inspection, it deems qualified to meet the needs of such child for instruction of such child in such educational facility. Such inspection shall also determine the eligibility of such educational facility to receive the funds hereinbefore specified." **(Sec. 4407 NY Stats.) (L)**

Any unusual type of handicap or combination of handicaps, deaf, blind, and deaf-blind are eligible for private placement if no public facilities are available. **(Sec. 4203 NY Stats.) (L)**

Profoundly deaf and deaf-blind students must be between the ages of three and 21 and must have been residents of New York State for one year. Exceptions to the one-year residency requirements may be made.

The district of residence or local board of cooperative services of unusually handicapped children may request from the private school whatever data and/or reports are necessary to determine eligibility for state aid, and may also require the child to report for an evaluation by professional personnel to determine eligibility. Failure to comply with these provisions or failure of the child to appear for evaluation will be a cause for denying approval. School must already have state approval. **(R)**

Application for instruction for unusually handicapped children must be made to the public school system. State assistance for nonpublic school attendance must be requested by a fixed date for any given semester. **(R)**

Parents seeking admission of their deaf, blind, or deaf-blind children to state-supported private schools for the blind or deaf must apply to the commissioner of education and complete an appropriate form designated by him prior to applying to any school. The commissioner will then direct the parents to make application to one of the state-supported private schools. That school will be responsible for applying to the commissioner for a state appointment. The commissioner may appoint deaf-blind students to these schools and double state aid may be allowed if three children are receiving services to meet their particular educational needs. Any school which refuses to admit a qualified deaf or blind child must report the child's name to the commissioner, along with its reason for rejecting the child, the school's evaluation record, and its recommendation for placement.

The approval of the commissioner will be determined upon the following criteria:

(1) Only those profoundly deaf or deaf-blind students between the ages of three and 21 who have been residents of New York State for one year may receive appointments to the private schools and be included for state support for their education. Exceptions to the one-year residency requirement may be made.

(2) Deaf-blind students may be appointed to the schools and double state aid may be allowed if the students are receiving a specialized program meeting their particular educational needs.

(3) Any school which refuses to admit a child who is profoundly deaf or legally blind and who should be in a program for deaf or blind children, shall report the name of the child to the commissioner. The school shall also report the reason for rejection, the school's evaluation record, and its recommendation for placement.

(4) State-appointed pupils shall be eligible for transfer between state supported schools at the end of a school term in January or June, upon approval of the commissioner. Exceptions may be permitted with the commissioner's approval prior to transfer, in unusual circumstances or when a more appropriate program is indicated.

(5) Deaf and blind children will be appointed to the school for the deaf or blind nearest their place of residence so that day attendance is possible and frequent home contact maintained. Exceptions due to student educational needs may be necessary and will be allowed when the school for the deaf or blind presents adequate justification for such placement.

(6) State appointed pupils being considered for transfer shall remain in the school they currently attend until another school has indicated that the pupil will be placed without undue loss of school attendance. Any transfer of a student not in accordance with this rule will result in the loss of aidable operating expenses to the school initiating the transfer.

(7) For state aid purposes the private state-supported schools shall conduct a full instructional program for not less than 180 days during the school year. Calendars showing such days in session shall be submitted to the commissioner for approval.

(8) The attendance of state-appointed pupils may not be terminated until after a five-month trial period. That portion of the school's expenses attributable to a state-appointed pupil terminated prior to the five month period will not be included in the school's aidable operating expenses. A pupil who exhibits behavior dangerous to himself or to other pupils may be suspended prior to this time period, and state aid will be provided if the approval of the commissioner is obtained prior to the school's recommendation to terminate.

The state may pay up to $2,000 annually for each unusually handicapped child. The child's school district of residence must reimburse the state for the difference between its per pupil expenditure and the usual amount of state aid. The school must use all aid money for expenses related to the educational program and not in excess of $8,500 for the salary of any one person. **(R)**

State supported private schools for the deaf, blind, or deaf-blind must report and justify to the commissioner all proposed expenditures for which state aid is requested, as well as all proposed income and expenditures in connection with federally-funded programs. These budget forms must be made out by line. Budgets approved by the commissioner for a particular school year represent the maximum state support for that year. Each school must limit its items of expenditures and position to those approved by the commissioner. Any transfers between categories of expenditure exceeding 10% of the approval budget authorization or $1,000 for the school year must have prior approval of the commissioner. Capital outlay for improvements, research activities, and other activities not part of the educational program for state-appointed pupils will not be approved as operating expenses for state aid purposes. However, expenditures for necessary repairs may be approved. All payments made to the state-appointed private schools will be in accordance with actual expenditures incurred during that school year. **(R)**

All other private placements are within the state. **(R)**

The facility for unusually handicapped children must have an adequate and suitable special education program and must have been registered with the department after a site visit to the facility. **(R)**

The facility must apply for approval by February 1 of the school year for which approval is requested. At this time it must have conducted a suitable special education programs for at least one year, and must provide data to this fact. **(R)**

Where other state agencies are involved, any audits conducted by other agencies must be made to the facility upon written request. If the facility is educating 10 or more unusually handicapped children who have instructional costs in excess of the state aid allocation, the facility must offer instruction free of any charge over and above the state allocation to at least 10% of such students enrolled there. The local social services or the New York City human resources administrator will determine which of the students are eligible for this free instruction. The facility must also submit an annual financial statement for the previous school year by November 15 of each year. This statement must be prepared by an independent accounting firm, and must include information as to all income sources, all expenditures, and the method used to compute actual instructional costs per child. **(R)**

Except under special circumstances, state-appointed pupils who are deaf, blind or deaf-blind, may transfer between state-supported schools only at the end of a school term in January or June, upon approval of the commissioner. No undue loss of school attendance is permissable. **(R)**

Except under special circumstances, these pupils are appointed to the school for the deaf or blind nearest to their place of residence. **(R)**

A school year must include at least 180 days of instruction. A calendar showing days in session must be submitted to the commissioner for approval. **(R)**

Attendance of state-appointed pupils may not be terminated until after a five-month trial period. However, a pupil exhibiting behavior dangerous to himself or to others may be suspended before the end of this period, and state aid will be provided if the commissioner's approval is obtained prior to the school's recommendation to terminate. **(R)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary Provisional (Certificate No. 3)

valid grades nursery school - 6. bachelor's degree, including professional education (24), student teaching or one year successful experience

Eligibility for Academic Subjects, Provisional (Certificate No. 4)

valid grades 7-12: bachelor's degree including professional education (12) and student teaching, specialization (12-24)

Eligibility for Special Subjects, Provisional (Certificate No. 5)

bachelor's degree, including professional education (12), student teaching, specialization (36)

Eligibility for Special Subjects, Permanent

master's degree or 32 hours of speciality

FACILITIES

The state allows a per pupil reimbursement for the construction of facilities. The cost of the allowance schedule is based on $1750 per pupil for a facility housing kindergarten through grade six; $2300 for a facility housing children in grade seven through nine; and $2350 for a facility housing grade seven through 12. All of these facilities shall include space appropriate for remedial programs for the handicapped. **(Sec. 3602 NY Stats.) (L)**

Where the handicapping condition does not preclude functional participation in activities with non-handicapped children, special classes shall be located in public school buildings where there are classes of regular grade children of similar chronological ages in order to promote integration of handicapped children into regular school activities. Adequate classroom space, facilities and equipment shall be provided for each special class. **(R)**

STATE PROFILE

OHIO

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The General Assembly shall make such provisions . . . as . . . will secure a thorough and efficient system of common schools throughout the state . . ." **(Art b, Sec. 2, Ohio Const.) (L)**

Compulsory Attendance Law: A child between the ages of six and 18 is of compulsory school age. All children are subject to the rules relating to compulsory education, and neither they nor the person in charge of them are excused from the compulsory requirements because the children's residence is seasonal, the parents of the children are residents of another state, or the children have attended school for the legal period in another state. **(Sec. 3321.91 and 3321.92 ORS) (L)**

The parent, guardian, or any other person having control of a child of public school age who has not been determined to be incapable of profiting substantially by further instruction will cause the child to attend a school conforming to the minimum standards prescribed by the state board for the full-time school is in session. **(Sec 8321.93 ORS) (L)**

Excuses from future attendance at the school and past absences may be granted by the authorities if the superintendent of the schools of the district of the child's residence excuses him from attendance for any part of the remainder of the current school year, upon satisfactorily demonstrating that the child's physical or mental condition does not permit his attendance at school during the period. In each case, the issuing superintendent will file in his office a copy of the excuse, demonstrating how the inability of the child to attend school was determined. All these excuses become void and subject to recall upon the removal of the disability of the child. Then, the child or his parents, guardians, or other persons having control of the child may be proceeded against after due notice whether or not the excuse is recalled. The board of education of the city, exempted village, or county school district in which a public school is located, or the governing authority of a private or parochial school may prescribe, under the rules and regulations governing the discipline of schools, the authority by which and the manner in which any child may be excused from absence from the school for any sufficient reason. **(Sec. 3331.04 ORS) (L)**

A child of compulsory school age may be determined to be incapable of profiting substantially by further instruction. The state board may prescribe standards and examinations or tests by which the incapacity may be determined as well as prescribe and approve the agencies or individuals by which they will be applied and conducted. The capacity of a child to benefit substantially by further instruction must be determined with reference to the specific instruction available to the particular child in the public schools of the district in which he resides. No child may be determined to be incapable of profiting substantially by further instruction if the superintendent of public instruction, pursuant to board standards, finds that it is feasible to provide him (in the district or elsewhere in the public school system) special classes or schools, or individual instruction through which he might substantially profit according to his mental capacity. In prescribing, formulating, or applying such standards, examinations, or tests, the state board may call upon, for assistance and advice, any other department or bureau of the state or any appropriate department of any university supported wholly or partly from state appropriations.

The results of the examinations or tests, and the recommendation of the agency or individual conducting them are reported to the superintendent who, subject to the standards of the board, may make the determination about the child. If the child is determined to be incapable of profiting substantially by further instruction, that determination will be certified by the superintendent of public instruction to the district superintendent who shall place the child under the supervision of a visiting teacher of the attendance officer to be exercised as long as the child is of compulsory school age. The superintendent of public instruction shall keep a record of all children determined to be incapable of profiting substantially by further instruction and a similar record will be kept by the superintendent of the district. Upon request of the parents, guardians, or persons having control of the child whose residence has been changed to another district, the superintendent who shall place the child under the supervision of a visiting teacher or the attendance officer district into which a child has moved. The state board of education may revoke any determinations made under this section. A child determined to be incapable of profiting substantially by further instruction will not be admitted to the public schools of the state while the determination remains in force. **(Sec. 3321.05 ORS) (L)**

A pupil may be expelled or suspended for up to ten days by the principal, school superintendent or school district executive head, who must notify in writing the child's parent or guardian and the clerk of the board of education within 24 hours after taking the action, and must include his reasons for taking the action.

The pupil or the parent, or guardian, or custodian of a pupil so expelled may appeal the action to the board of education at any meeting of the board and shall be permitted to be heard against the expulsion. At the request of the pupil, or his parent, guardian, custodian, or attorney, the board may hold the hearing in executive session but may act upon the expulsion only at a public meeting. The board may, by a majority vote of its full membership, reinstate such pupil. No pupil shall be suspended or expelled from any school beyond the current semester. **(Sec 3316.66 ORS) (L)**

Responsibilities: Upon the petition of the parents or guardians of eight crippled or slow learning children in any school district, the board of education in that district shall apply to the state board for permission to establish a special class. If permission is granted, the class shall be established not later than the beginning of the following school year. **(Sec. 3323.04 ORS) (L)**

Any district in which physically or emotionally handicapped children, who not even with the help of transportation are able to be assembled in a school, will be provided home instruction. **(Sec. 3323.95 ORS) (L)**

"A board of education has a right to exclude from the school under its charge a child who is feeble-minded and incapable of profiting by attendance at school and whose presence is a detriment to other pupils."
(Op. Att'y. Gen. number 1967 (1947))

It is mandatory for a local board of education to provide training and/or educational facilities and services for children with an intelligence quotient of 50 or below unless such children have been determined to be incapable of profiting substantially by further instruction as provided by Section 3321,05, Revised Code.
(Op. Att'y. Gen., May 2, 1969) See also Population.

"There is no intelligence quotient below which a local board of education is without authority to provide classes for children. Unless and until a determination that a child with an intelligence quotient below 50 is incapable of profiting substantially by further instruction, the age limits to be considered in determining the necessities for providing classes to such children are the same age limits which must be considered for providing classes for all children. Until such a determination is made, therefore, the only age limits which have any application to providing classes for children are the compulsory school age limits contained in Section 3321.01 Revised Code, which provides that a child between six and eighteen years of age is of compulsory school age."
(Op. Att'y. Gen., May 2, 1969) See also **Finance, (Op. Att'y. Gen., 1951)**

POPULATION

Definitions: "Any person of sound mind, by reason of defective hearing or vision, or by reason of being so crippled as to be physically unable to properly care for himself without assistance cannot properly be educated in the public schools as other children, shall be considered deaf, blind, and crippled within the meaning of section 3323.01 and section 3323.08 of the revised code. Persons with partial vision may also be instructed under such sections." (Sec. 3323.03 **ORS) (L)**

The deaf blind handicapped are those children age three and over, who have both an auditory and visual impairment, the combination of which causes such severe communication and other developmental and educational problems that they cannot properly be accommodated in special programs for either hearing impaired or visually handicapped children."

The speech, hearing and language impaired are those children of school age with IQ's 50 and above with disabilities severe enough to impede educational progress and social functioning."

A hearing impaired child is defined as a child who has a relatively flat audiometric contour and an average pure tone hearing loss of 50 dB or greater for the frequencies 500, 1000, and 2000 Hz in the better ear (ISO-1964), or has an abruptly falling audiometric contour and an average pure tone hearing loss of 50 dB or greater in the better ear for the two better frequencies within the 500-2000 Hz frequency range (ISO-1964), or functions as a hearing impaired child with respect to communication skills and is approved for placement in a special education class by the division of special education."

The deaf are those children having "a hearing loss of such type and degree that a system of communication cannot be acquired naturally through hearing. Communication must be developed for these children."

The hard of hearing are those children having "functional speech and language, but which is defective in quality and limited in quantity due to the presence of a moderate hearing loss. For these students, existing speech and language skills must be corrected and developed." **(R)**

Age of Eligibility: The state board of education may grant permission to any board to establish and maintain classes for the instruction of deaf or blind persons over age three. Services are mandated to age 18 and may be extended to 21. **(Sec. 3323.01 ORS) (L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Screening: The state board of education or department of health may provide for the medical examination of school children including vision and hearing screening. **(Sec. 3323.01 ORS) (L)**

Minimal screening recommended by the Ohio department of health for the identification of hearing impaired children includes all children in grades three, six, and nine; new students; and referrals by nurses and teachers. **(R)**

Assessment and Placement: Subject to the regulations adopted by the state board of education, the state school for the deaf is open to receive persons who are deaf, partially deaf, and both blind and deaf residents of the state who, in the judgment of the superintendent of public instruction and the superintendent of the school for the deaf, due to such handicap, cannot be educated in the public school system and are suitable persons to receive instructions according to the methods employed in such school. **(L)**

All deaf and deaf-blind children will be referred by the school district of residency to the division of special education, which will maintain a central file for all information concerning deaf children. All deaf children referred will receive otological, audiological, psychological, and educational evaluation, as information is needed to complete the evaluation. **(R)**

The report on each child will be referred to a committee consisting of the superintendent of the school for the deaf or his designated representative; the director of the division of special education and another member designated by the superintendent of public instruction. The committee recommendations will be submitted to the superintendent of public instruction for appropriate action. **(R)**

Children may be admitted to either a residential or a day school program at the Ohio school for the deaf if they have a severe thorough profound hearing loss in the speech range (60 decibel or more loss in the better ear), if their calendar age is four years, six months by September 1st of the current year, if they are capable of profiting substantially by instruction (as determined by state board standards under Section 3321.05 R.C.) and if they have sufficient physical and social maturity to adjust to the discipline of formal instruction and group living. **(R)**

Any child attending the school for the deaf or blind who, in the opinion of the superintendent of public instruction, is not making sufficient progress in the school or industrial work to justify his continuance as a pupil in the school may be returned to his parents, guardians, or proper agency. **(Sec. 3325.03 ORS) (L)**

Factors that will be considered in the placement of children are availability of a suitable local school program, needs of individual children, and parental preference. **(R)**

The primary person responsible for the identification and assessment of children with handicaps is the school psychologist.

In order to be eligible for placement in a special educational unit for hearing impaired children, a child must be of legal school age for hearing impaired children, have impaired hearing to the extent defined, and be determined through a multi-factored assessment administered by a qualified psychologist to be capable of benefiting substantially from instruction.

Placement of students into educational units for hearing impaired children will be based upon the needs of each child with regard to his communication skills. Students shall be classified into two general educational placement categories—deaf or hard of hearing.

A current audiological and physical examination (including ears, nose, and throat) shall be required for placement in an approved special education unit for hearing impaired children. Periodic audiological evaluations shall be provided for continued placement in an approved program.

Medical consultation shall be encouraged on a continuing basis—especially when the school feels that there has been a change in a child's behavior or educational function or when new symptoms are detected.

Any child of legal school age who has speech, language or hearing problems is eligible for speech and hearing therapy services.

The basis for selection and placement of children for these services shall be made by the therapist and include diagnostic speech evaluation, including observation of the speech structures; audiometric evaluation within the first six weeks of initiating therapy; language assessment when indicated; and psychological services as required. Also, general examination by the school or family physician when indicated, and referral of children with voice problems of organic etiology through the physician to an otolaryngologist are required. Therapy for myofunctional (e.g., tongue thrust) disorders, in the absence of concurrent speech disorders, should be initiated only after all children with identified speech, hearing and language disorders have received necessary intervention.

The basis of selection of children for speech-reading (lipreading) and auditory training shall be individual audiometric evaluation—otological examination, with a copy of the report filed with the case materials; and assessment of speechreading ability.

The school district must have written criteria to determine eligibility for, and placement of, students in the program authorized by this standard. Such criteria must include standards adopted by the state board of education; provisions for including additional criteria, when relevant, to the unique characteristics of the school population; additional criteria that may be useful in determining eligibility for placement; a process for informing the parent(s) or guardian(s) of the program prior to placement of any student in speech, language or hearing therapy, and priorities to establish selection of students on the basis of individual need. Children may not be dismissed from therapy before optimum improvement has been reached. **(R)**

Hearing handicapped pupils may be given individual tutoring if one of the following conditions exist: (1) there is no immediate special class placement for the child; (2) the child has received instruction in an approved special education unit for deaf and/or hard of hearing children and has been returned to a regular junior and/or senior high school program, (3) the child is unable to attend for a full day due to a physical problem in addition to the hearing loss, (4) the child is evaluated by the educational clinic team and the central review committee recommends approval of individual tutoring. **(L)**

The superintendent of schools (or his designated representative) must sign all applications for individual tutoring for hearing handicapped children.

Any educable child who meets the following requirements shall be eligible for placement in a special education unit for hard of hearing children: (1) has an intelligence quotient of 50 or above based upon an individual psychological examination administered by a qualified psychologist, is capable of profiting substantially from instruction and is of legal school age; (2) has a relatively flat audiometric contour and an average pure tone hearing threshold of 50 dB or greater for the frequencies 500, 1000, and 2000 cps in the better ear; or has an abruptly falling audiometric contour and an average pure tone hearing threshold of 50 dB or greater in the better ear for the two better frequencies within the 500-2000 cps frequency range or functions as a hard of hearing child and is approved for placement in a special education class by the division of special education. **(L)**

A current audiological and otological examination shall be required for placement in approved special education units for hard of hearing children. Periodic examination is required for continued placement in an approved program. Hard of hearing children with intelligence quotients between 50-80 should be placed in special education programs for slow learning children who are hard of hearing. **(L)**

Special consideration for placement in secondary school programs should be given hard of hearing children who received instruction in special education classes through elementary school. Other alternatives which may be considered in addition to those outlined above: (1) assignment to a regular class on a full-time basis if no additional instruction with special teachers is needed, (2) assignment to an approved class for slow learning children if they have sufficient mastery of special skills (lipreading, auditory training, speech and language) do not require additional instruction with hard of hearing and are capable of profiting from instruction; (3) assignment to an approved special education class for deaf children if their needs in the language subjects are comparable to those of deaf children at this level. There must be written policies for the selection and placement of children in classes for hearing children on a full or part-time basis.

There must be evidence of periodic evaluation of the educational progress of all children placed in approved units for hard of hearing children. **(L)**

Child Welfare Boards have the responsibility to training mentally retarded individuals. The question was asked whether a child welfare board could order and pay for a psychological examination to determine whether an individual is eligible for services when that individual has never been in a program and may not qualify. The Attorney General felt a Child Welfare Board could provide a psychological examination to determine eligibility of an individual for a training program. **(Op. Att'y. Gen., May 25, 1967)**

"To individuals of school age only those adjudeged ineligible for enrollment in public school under the provision of Section 4849-4 General Code, may be admitted to enrollment in training centers established by the Division of Mental Hygiene under the provisions of Section 1890-7a, et. seq. General Code." The agency given the authority to make the final determination of ineligibility of a child to attend public school. **(Op. Att'y. Gen.,** August 11, 1952)

ADMINISTRATIVE RESPONSIBILITY

The state board of education will select competent persons to inspect at least once a year all classes and to direct and supervise other special education services and to report concerning the instruction in these classes, the conditions under which they are maintained, the conditions under which any persons enrolled in the classes are boarded, and the extent and nature of all other services related to education affecting physically, emotionally, or mentally handicapped persons. The state board will also prescribe standard requirements for physically and mentally handicapped children and for the instruction and services of all types of handicapped children for which all school districts are entitled to state reimbursement or aid.

These requirements shall include conditions under which the schools are conducted, services are rendered, methods of instruction, child study, counseling adjustment, program supervision, the qualification of teachers and personnel in charge of child study and counseling and the conditions and terms under which they are employed, the special equipment and agencies for instruction provided and the conditions of the rooms and buildings in which the schools are held. **(Sec. 3323.02 ORS) (L)**

The state school for the deaf is under the control and supervision of the state board of education. On the recommendation of the superintendent of public instruction, the state board will appoint a superintendent for the state school for the deaf, who will serve at the pleasure of the state board. **(Sec. 3325.01 ORS) (L.)**

The superintendent of schools in each county, city and exempted village school district must, for the schools under his supervision, certify to the state board of education on or before the 15th day of October in each year the total average daily membership based upon full-time equivalence in approved vocational units and in joint vocational school districts, average daily membership of all deaf, blind, emotionally disturbed, neurologically handicapped, and crippled children in classes approved annually by the state board of education, and the average daily membership in approved educable mentally retarded units under his supervision not actually enrolled in the first full week of October, but whose enrollment is anticipated in the next succeeding trimester, quarter, or pentamester, and must certify this estimate to the state board of education in addition to the certification of total average daily membership of these students actually enrolled during the first full week in October. **(Sec. 3317.03 ORS) (L)**

The county children services board shall, subject to the rules, regulations, and standards of the department of public welfare, have the power and duty on behalf of children in the county deemed by the board or department to be in need of public care or protective services, to find foster homes, within or outside the county, for the care of children, including handicapped children from other counties attending special schools in the county. (Sec. 5153.16)(L)

"A county child welfare board has the authority to operate training classes for mentally deficient children as established by the division of mental hygiene pursuant to Chapter 5127, Revised Code, regardless of whether or not such children are wards under the care and responsibility fo the board. Pursuant to the provisions of Section 5127.03 and 5153.16, Revised Code, a county child welfare board may request funds to meet its share of the mentally deficient children." (Op. Att'y. Gen., **December 4, 1959)**

A follow-up to the above 1959 opinion dealt with school districts payments to child welfare boards. A further elaboration of the 1959 opinion was requested and the Attorney General stated "A county child welfare board or a county welfare board in counties without a county child welfare board may operate a training center under the direction and supervision of the commissioner of mental hygiene pursuant to Section 127.01 Revised Code, and may receive state funds pursuant to Section 5127.03, Revised Code, for the costs of such operation." **(Op. Att'y. Gen. April 6, 1960)**

PLANNING

Approval of funds for special education programs will be contingent upon approval of a comprehensive plan for special education approved by the state board no later than July 1, 1973. The state board may not approve a school district's plan unless the proposed plan meets the educational needs of handicapped children in that school district and other districts in the same area. Each district must submit a plan to the state board by December 1, 1972, containing the following:

1. Provision for an organizational structure and necessary staffing for the identification and placement of handicapped children in appropriate programs.
2. Provision for an organizational structure for the necessary supervision and staffing of programs and services.
3. Provision for the programs and services necessary to meet the educational needs of every handicapped child in the school district in accordance with standards and eligibility criteria of the state board.

* When approving the organization of special education, the state board must provide that no school district be excluded from the state wide plan. A district may have a plan providing for a cooperative arrangement with one or more other school districts to provide classes or other special programs of instruction for all physically, emotionally and mentally handicapped children resident of that school district, or a district may contract with another school district for service in such classes which meet the established standards in compliance with this section.

The state board must submit an interim report no later than February 1, 1973 to the chairman of the House and Senate Committees on Education containing the board's preliminary recommendations for implementing the comprehensive plan. The report must include but is not limited to the following items: an analysis of the kinds and extent of special education services to be provided through the comprehensive plan, cost projections for implementing the plan, and an analysis of the availability of qualified personnel to implement the plan. The chancellor of the Ohio board of regents shall provide to the state board upon request any information the board deems necessary to analyze personnel availability. **(Sec. 3323.011 ORS) (L)**

Two or more districts may arrange cooperatively for a speech, language and hearing services unit or supervisory unit. **(R)**

FINANCE

In addition to state minimum foundation aid, districts having special education units for deaf, blind, emotionally disturbed, crippled or educable mentally retarded, neurologically handicapped, or emotionally disturbed children receive an additional $1,000 for each unit. The number of each school district's certified employees, used in the calculations of this sum, may not exceed the number of approved classroom units of this school district, nor may the number of units used in the calculation exceed the number of employees if that school district operates on a trimester or quarterly plan. If the district is on a trimester plan, the number of employees may be 1½ times the total number of certified employees. In a quarterly plan, the district may receive funds for 1 1/3 the total number of certified employees. **(Sec. 3317.02 ORS) (L)**

By October 10 each year, the superintendents of schools of all districts must certify, to the state board of education, the total yearly membership in regular day classes for the first full school week in the month of October as well as the average daily membership of all deaf, blind, emotionally disturbed, crippled, and educable mentally retarded children in classes approved annually by the state board of education. No child shall be counted more than once in the average daily membership by the school district. **(Sec. 3317.03 ORS) (L)**

For the purpose of calculating payments under sections 3317.02 and 3317.16 of the Revised Code the following shall be determined for each school district:

1. The number of vocational education units or fraction thereof approved, annually by the state board of education on the basis of standards, rules, and regulations adopted by the board;
2. The number of classes for deaf, blind, emotionally disturbed, crippled or neurologically handicapped children or fraction thereof approved, annually by the state board of education on the basis of standards, rules, and regulations adopted by the board;
3. The number of special education classes or fraction thereof including those for educable mentally retarded defined as children with an intelligence quotient of at least 50 and not more than 80 and for speech handicapped children approved annually by the state board of education on the basis of standards, rules, and regulations adopted by the board;
4. The number of units for child study and occupational, physical, and speech and hearing therapy or fraction thereof approved annually by the state board of education on the basis of standards, rules, and regulations adopted by the board;
5. The number of units for special education supervisors and special education coordinators approved annually by the state board of education on the basis of standards, rules, and regulations adopted by the board.

The total number of classroom units approved annually by the state board of education for vocational and special education shall not exceed the number of classroom units included in the state board of education's estimate of school foundation program cost and with appropriations thereto by the general assembly or as approved by the state controlling board or the state emergency board.

Where a child who is a school resident of one district attends in another district, a class in which some special instruction needed by the child because of his handicap is provided and the per capita cost of such instruction exceeds the sum of the per capita amount received by the district of attendance under Chapter 3317 of the Revised Code, and the per capita amount received from the state board of education, then the board of education of the district in which such child is a legal school resident shall pay directly to the board of the school district that is providing the instruction such excess cost as is determined by using the formula approved by the department of education agreed upon in contracts entered into the board of the district concerned at the time the district operating the special class accepts the child for enrollment in the special class. The department of education shall certify the amount of the payments under chapter 3317 of the Revised Code for such handicapped pupils for each school year ending on the thirtieth day of July. **(Sec. 3323.11 ORS) (L)**

The state board of education may arrange with any board of education which maintains a class for the instruction of blind, deaf, or crippled persons, or affords special instruction for such children who are not school residents of the district, to pay for the board of any such persons under such standards and with such restrictions as the state board of education prescribes. **(Sec. 3323.12 ORS) (L)**

In addition to funds paid to districts through the minimum foundation program, they may receive an amount for the approved cost of board and transportation for physically and emotionally handicapped children attending regular education classes.

Cost of teacher training (See Personnel) and the approved cost of home instruction for physically or emotionally handicapped children and other special instructional services for physically or emotionally handicapped children are also reimbursed. The distribution of these funds is made on the basis of standards adopted by the state board of education. **(Sec. 3317.06 ORS) (L)**

By June 30 each year, county child welfare boards must report to the commissioner of mental hygiene, the names and addresses of all persons enrolled in a training center or workshop for the mentally deficient (trainable mentally retarded), the period of time each person was enrolled, an itemized report of the expenditure as approved by the commissioner, and the net per capita cost for operating the training center and workshop. After approval, the division of mental hygiene will reimburse the agency operating the center up to $300 per year for each person enrolled in the training center or workshop. **(Sec. 5217.03 ORS) (L)**

For each approved unit for child study, occupational or physical therapy, speech and hearing, special education coordinators, amount derived from the minimum salary schedule based upon the teacher's training level and years of experience, plus 15% of such allowance, plus $600 is added to other state aid.

For each teacher of an approved unit for a deaf, blind, emotionally disturbed, crippled, neurologically handicapped, or educable mentally retarded class in the district, an amount derived from the minimum salary schedule in section 3317.13 of the Revised Code, plus 15% of such allowance, plus $4,000 is added.

The county commissioners have the authority to appropriate and pay funds to the board of education for a portion of the cost of operating training schools for mentally retarded children. The child welfare board, county commissioners, and a board of education of a district in a county have the authority to contract with each other for special training for mentally retarded children. They may agree on division of costs to maintain and operate such a training school. Mentally retarded children are those not presently accepted for enrollment in public schools. **(Op. Att'y. Gen., number 447 (1951))**

"A board of education, under the provisions of Section 3070-17, General Code, may spend moneys from its general funds in support of children's training schools including training centers established by the Division of Mental Hygiene under provisions of Section 1890-7a, et. seq. General Code; and such expenditures of funds will not affect the right of the school district concerned to receive payments from the public school fund under the provisions of Section 4848-1, and 4848-3, General Code, based on the attendance of pupils other than those which have been adjudged ineligible for enrollment in public school as provided in Section 4848-4, General Code." In other words, a school system is allowed to support a training school and also collect funds to educate some of its handicapped within the school system. However, money cannot be collected for children excluded and sent to training centers. **(Op. Att'y. Gen., August 11, 1952)**

The following opinion deals with payment of tuition or support to child welfare boards by local school systems. "The provision of Section 5127.04, Revised Code, that a board of education pay an amount as specified in said section to a child welfare board is mandatory."

Where a board of education fails to pay the amount due under Section 5127.04 Revised Code, to a child welfare board, the child welfare board may proceed in mandamus, or other proper legal remedy, to enforce the payment; and in such action, the child welfare board should be represented by the county prosecuting attorney, which officer has a duty under Section 309.09, Revised Code, to represent the child welfare board.

A board of education must pay the full amount required by Section 5127.04, Revised Code, to the county child welfare board, where all other requirements of that section have been met, regardless of whether such board of education claims that the child welfare board owes the school district an amount for the use of the classroom."
(Op. Att'y. Gen., February 5, 1963)

Since it is mandatory that services be provided for handicapped children of school age if they can profit from it, (see Right to Education, Op. Att'y. Gen., May 2, 1969) "a board of education is entitled to receive tuition from other local boards of education in those instances specifically provided by statute."
(Op. Att'y. Gen., May 2, 1969)

"A joint vocational school district's eligibility for payments under Chapter 3317, Revised Code, is limited to those allowances set forth in Section 3317.16, Revised Code, and is further qualified by the nature of the class units for which funds are sought.

A joint vocational school district is not eligible under Section 3317.06, Revised Code, or any other Section in Chapter 3317, Revised Code, for reimbursement of the costs incurred in the transportation of educable mentally retarded children to special classes." **(Op. Att'y. Gen., June 7, 1972)**

A school district located in one county may make payments for resident pupils pursuant to Section 5127.04, Revised Code, to a county board of mental retardation of another county, where the board of mental retardation of the second county has furnished the training described in Chapter 5127, Revised Code.
(Op. Att'y. Gen., June 26, 1972)

"County school districts may establish and operate special education units, including classes for blind, deaf, and crippled children, as well as child study, speech and hearing, or special education supervisory units, which may also serve city and exempted village school districts. The county school district may be eligible for funding of these units pursuant to R.C. 3317.02 and 3317.11.

"A city, exempted village or local school district's right to contract with a county school district for the operation by the county school district of a special education unit which will serve both districts, does not reduce the minimum state payment to the city, exempted village, or local district provided by R.C. 3317.04 and reflected in Line 9 of R.C. 3317.15.

"The guarantees set out in R.C. 3317.04 protect school districts from losses of foundation payments which are a result of one of the changes specified in that Section. The guarantee provided by Section 3 of Amended Substitute House Bill No. 475 is an unqualified guarantee that is not affected by a school district's transfer of special education units to another district." (Op. Att'y. Gen., April 4, 1973). See also Administrative Structure and Organization.

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Two or more districts may arrange cooperatively to employ one speech and hearing therapist. (L)

If a child attends a special education class in a district other than his district of residence, the board of education of the servicing district may require a payment from the sending district at a tuition rate not exceeding the tuition rate for a child in a regular class in the same grade. The district of residence of a child may contract with the board of another district to transport the child into any school district on terms agreed by both boards. Under the direction of the state board of education, the district of residence will pay for transportation and tuition cost. (L)

If the tuition rate paid by the sending district exceeds the per capita cost for the instruction of the child the board of education of the sending district shall pay directly to the board of the servicing district the excess cost as determined by a formula approved by the department of education and agreed upon in contracts entered into by the boards of the districts concerned at the time the district operating the special class accepts the child for enrollment. (L)

Tuition rates for handicapped pupils receiving special services in a district other than their district of residence are determined by computing the total expenditures of the schools in the receiving district. The operating cost is computed by deducting the amounts expended for capital outlay, permanent improvements, debt service, transportation, operation of school lunchrooms, tuition to other school districts, operation of kindergarten classes, operation of summer schools, part-time school, evening schools, and maintenance of playgrounds from total expenditures. Depreciation charges not exceeding three percent and

annually based on the actual cost to the district may be added, plus any amount of private donations in grants. Federal grants and all property except land used in conducting the school will be subtracted from the total. From the operating cost plus depreciation charges will be deducted the proceeds of all state monies apportioned to the district, interest on the irreducible debt and income from school trusts and land rental funds. The remainder is divided by the number of pupils in daily membership in grades one to 12 inclusive. Attendance for any part of the month is regarded as attendance for a month unless the annual session is terminated before the end of the full month. The amount of tuition computed in this section must be certified by the board of education in the district of attendance to the board of education of the district of residence for approval and payment. If no agreement is reached as to the amount payable or if the board of education of the district of residence refuses to pay the amount, the board of education of the district of attendance will notify the superintendent. The superintendent will then determine the correct amount and will deduct the same from the amount of state funds, if any, allocated to the district of residence and transfer them to the receiving district. The superintendent will send to the district of residence an itemized statement showing any deductions. (L)

Two or more districts or high schools may share an approved unit for work study coordinator. (L)

The boards of education of any two or more school districts may, subject to the approval of the superintendent of public instruction, enter into agreements for the joint or co-operative constructive acquisition, or improvement of any building, structure or facility benefiting the parties thereto, including, without limitation, schools and classrooms for the purpose of Chapter 3323. of the Revised Code, and for the management, operation, occupancy, use, maintenance, or repair thereof, or for the joint or co-operative participation in programs, projects, activities, or services in connection with such building, structures, or facilities. (Sec. 3313.92 ORS) (L)

A supervisory unit may be approved to provide speech, language, and hearing supervisory services for technical assistance, program management and program evaluation.

Each supervisory unit shall be responsible for program evaluations which shall assist in identifying program strengths and needs, and lead to the development and implementation of strategies designed to facilitate program growth.

Each supervisory unit shall be provided with office space, secretarial assistance and telephone usage.

One supervisory unit may be approved for each 20 approved speech, language and hearing units.

Special education units for deaf, blind, emotionally disturbed, crippled, neurologically handicapped, and educable mentally retarded may be operated by a county board of education which shall be eligible for funding under division (C)(3) of section 3317.02 of the Revised Code.

If a child who is a school resident of one school district attends in another district, a class in which some special instruction needed by the child because of his handicap is provided, the board of education of the district in which such class is located may require the payment by the board of education of the district in which he is a school resident of a sum not to exceed the tuition in the district in which such class is located for a child of normal needs of the same school grade. The determination of the amount of such tuition shall be in the manner provided for by sections 3317.05 and 3317.08 of the Revised Code. The board of the district in which such child is a school resident may contract with the board of another district for the transportation of such child into any school in such other district, on terms agreed upon by such boards. Upon direction of the state board of education the board of the district in which such child resides shall pay for his transportation and the tuition. (Sec. 3323.10 ORS) (L)

"The problem of providing transportation for retarded children to and from schools for retarded children established pursuant to Section 5153.16, revised Code, should be decided by agreement between the school boards and the board of county commissioners and the child welfare board as provided for in Section 5153.16, Revised Code; the transportation problem in regard to schools for retarded children established pursuant to Section 5127.01, Revised Code, is a matter to be decided by the child welfare board, there being no authority for school boards to provide such transportation." **(Op. Att'y. Gen., January 25, 1963)**

County commissioners of a county in Ohio operated a County School for Retarded Children through the County Welfare Department. According to statutes, the commissioners could not lease an automobile for the transportation of the children. The County Welfare Department could lease a car or have one donated to them for transportation purposes, however, it was the Attorney General's opinion that "under the provisions of Section 307.22 Revised Code, a board of county commissioners may receive donations and gifts to promote and advance the cause of education. However, in the absence of an agreement with the County Welfare Department to provide transportation for students of the County School for Retarded Children established under the provisions of Section 5153.16, Revised Code, there is no authority to expend funds for transportation of students to or from such school." **(Op. Att'y. Gen., May 19, 1965)**

"A community mental health and retardation board established pursuant to Chapter 340, Revised Code, is without authority to supervise or control a county board of mental retardation established pursuant to Section 5126, Revised Code, or the functions thereof, or the establishment of operation of any facilities provided by Chapter 5127, Revised Code." **(Op. Att'y. Gen., November 10, 1969)**

"The community program for the trainable mentally retarded administered through the Department of Mental Hygiene and Corrections, is considered a state operated program. The community program for the trainable mentally retarded is considered free public education under Ohio Statutes."
(Op. Att'y. Gen., March 22, 1972)

SERVICES

Teachers of the homebound and teachers in special education classes are appointed in similar fashion to other public school teachers. They must possess the usual qualifications required of teachers in the public schools and any special training requirements the state board of education or local boards may require.

The so-called "oral system" must be taught by teachers in the schools for the deaf and if, after a fair trial of nine months, any child is unable to learn by this method he may then be taught the manual method at a separate school. **(Sec. 3323.06 ORS) (L)**

The districts may maintain child study, counseling, adjustment, and special instructional services, including home instruction for persons over age five whose learning is retarded and who are impaired by physical or emotional handicaps. **(Sec. 3323.01 ORS) (L)**

The state board of education may arrange with any board of education maintaining a class for the instruction of blind, deaf or crippled persons to provide special instruction for nonresident children and to pay for the board of any person. **(Sec. 3023.12 ORS) (L)**

If another school district within the same county or an adjoining county is the source of 60 percent or more children in a hospital or institution, the board of that district will educate all children within the institution. In any case, the board providing the educational facilities will be entitled to all monies authorized for the attendance of pupils provided for the education foundation program, tuition, and any additional compensation provided for crippled children. Any board which provides the educational facilities for children in a county or municipal institution established for the care and treatment of children who are delinquent, unstable, or socially maladjusted will not be entitled to any money provided for crippled children. **(Sec. 3313.55 ORS) (L)**

A comprehensive special education program at the school district level shall consist of instructional services at the pre-school, primary, intermediate, junior high and senior high school levels.

A comprehensive program shall provide for supervision and the services of a speech therapist, school psychologist, and a work study coordinator.

The following is the general organization for delivery of services to speech, language and hearing handicapped children based upon their assessed needs:

1. Class size shall be limited to a maximum of five students.
2. Class periods shall ordinarily not be less than one-half of the regular school period, unless precision therapy is utilized.
3. Adequate records of all students screened, placed on waiting list, currently on active caseload, and those dismissed from therapy services shall be maintained.

A special education unit or fractional unit may be approved for speech, language and hearing services only within these standards.

A special education unit may be approved outside these standards to evaluate new instructional methodology and/or alternative procedures related to speech, language and hearing services, including audiologic services.

A school district wishing approval for such a unit shall submit a written proposal to the Division of Special Education and receive written authorization in advance of implementation.

The application shall include: rationale for the project, definition of target population, projected staffing ratios, description of facilities, list of materials and equipment, and list of measurable objectives at the administrative, program, therapist, and child levels.

An annual evaluation of the objectives shall be submitted by July 1 in accordance with a format provided by the Division of Special Education.

One special education unit in speech, language and hearing services may be approved for each additional 2,500 children in A.D.M.

One unit in speech, language and hearing services may be approved as a supervisory unit in speech, language and hearing services.

The state board of education may grant permission to any board of education to establish and maintain classes for the instruction of deaf or blind persons over the age of three and physically, emotionally, or mentally handicapped persons over the age of five; and to establish and maintain child study, counseling, adjustment, and special instructional services, including home instruction, for persons over the age of five whose learning is retarded, interrupted, or impaired by physical, emotional, or mental handicaps.

Children should not be dismissed from therapy services before terminal criteria based on specific instructional objectives are achieved.

Periodic assessment of children dismissed from therapy shall be made over a two-year period.

Up to 20% of the time of the speech, hearing and language services staff may be assigned to work with regular or special educators and their students for purposes of prevention or remediation of communication problems.

Up to one-half day per week may be allocated for coordination of the program, parent, staff and agency conferences concerning individual students, staff development activities, and related follow-up.

The following are the scheduling options for the speech, language and hearing program.

In the traditional method of scheduling, the number of centers in which a speech, language and hearing services unit is employed should be determined by the enrollment of the building and needs of the children. Not more than four centers per unit is recommended, and the maximum shall not exceed five at a given time for one full time therapist.

Elementary children shall be enrolled for a minimum of two periods weekly, and high school students shall be enrolled for a minimum of one period a week.

Children may be seen less frequently to provide appropriate reinforcement and follow-up during the transfer and maintenance stages of therapy.

In the intensive cycle method of scheduling, the speech, language and hearing therapist shall schedule at least four one-half days per week in each center. One-half day per week should be used to follow-up cases in previous cycles where continued reinforcement is indicated.

Each speech center shall be scheduled for a minimum of two to a maximum of four cycles per year, and the length of each cycle shall be a minimum of five to a maximum of ten consecutive weeks.

The individual intensive cycles scheduled at a particular center shall alternate with time blocks in other centers.

The first intensive cycle scheduled at each center should be longer to provide sufficient time for case finding and initiating the program.

In programs where there are numerous small centers, intensive cycle scheduling should be considered the most efficient approach.

A combination of the intensive cycle and traditional methods may be scheduled.

Additional program options may be approved on the basis of guidelines adopted by the state board of education.

There must be evidence of the assessment process for each child receiving speech, language and hearing therapy.

There must be evidence of planned, written progress reports to parents.

Speech, language and hearing therapists shall not be assigned to instruct children not eligible for the class as part of their responsibilities.

A comprehensive program for hearing impaired children shall provide the following options to students based on assessed needs:

1. A special classroom unit with flexibility to enable students to receive maximum services on a part-time to full-time placement;
2. supplemental tutoring for a hearing impaired student when deemed necessary in order to maintain him successfully in a class of hearing children;
3. part-time placement of a hearing impaired student from a class of hearing children into a class of hearing impaired children for instruction in specific academic needs;
4. supportive services to assist teachers of hearing children meet the educational needs of children having mild hearing impairments;
5. additional program options may be approved on the basis of guidelines adopted by the State Board of Education.

Two or more school districts may cooperate in providing any or all portions of the components of a comprehensive program.

The instructional program should provide each student with academic, social, and occupational skills leading to independence as an adult.

Teachers shall incorporate assessment information, instructional objectives, and evaluation data in the instructional program.

Program organization for an instructional unit shall be essentially the same as for other children of the same age in the school district. This applies to the length of the school day and participation in selected general school activities.

Appropriate techniques must be utilized in the classroom to reduce stimuli, to minimize trial and error learning, to develop better self-concepts and to provide direction leading to increased self-control.

There must be written policies for the selection and placement of hearing impaired children to be integrated into classes with regular children.

Classes for hearing impaired children must be organized so that provision can be made for some children to receive full-time instruction from a special teacher while others receive a portion of their instruction from a special teacher and are integrated into regular classes in proportion to the child's ability to succeed.

The primary educational responsibility for any hearing impaired student integrated into a regular class on a part-time basis shall remain with the special education teacher in whose class he is enrolled.

There must be evidence of periodic reporting to parents regarding the child's academic progress and behavioral adjustment.

There must be evidence that the teacher maintains periodic records for each child's individual instructional program. These records shall contain both normative and criterion referenced data.

Teachers of approved classroom units for hearing impaired children shall have as a full-time assignment the instruction of those eligible children for which they are responsible.

A school district requesting approval for an experimental unit must submit a written proposal to the Division of Special Education and receive written authorization in advance of implementation.

The application must include: rationale for the experimental unit; definition of the target population, assessment and placement procedures, projected staffing ratios, description of needed facilities, a list of materials and equipment, and a list of measurable objectives at the administrative, program, teacher and child levels.

An annual evaluation of the objectives must be submitted by July 1 in accordance with a format provided by the Division of Special Education.

A special education unit or fractional unit may be approved for an instructional unit for hearing impaired children.

A pre-school instructional unit may be approved on a half-day basis - 0.5 unit per class.

A special education unit may be approved for a supervisor unit for hearing impaired children.

A special education unit may be approved for a work study coordinator for physically handicapped children.

Transportation may be approved for physically handicapped children attending a special class program approved by the Division of Special Education.

Transportation may be approved for physically handicapped children attending a regular class in public and/or parochial schools.

Transportation may be approved for emotionally handicapped children only when attending a special class program for emotionally handicapped approved by the Division of Special Education.

Requests for transportation for less than two months duration must not be approved by the Division of Special Education.

The superintendent of schools (or his designated representative) must sign all applications for transportation of handicapped children.

Students in secondary work-study programs for the slow learning may be furnished transportation to and from work by the school board in a donated station wagon.

The county welfare agency must provide transportation for all individuals enrolled in the Community Class Program.

Transportation may be provided in school buses or other vehicles owned and operated by the county, vehicles owned and operated by a contractor, vehicles owned by a public utility, vehicles owned by a licensed taxicab company, or vehicles owned by a private owner who is paid on a per diem or mileage basis.

For secondary work-study programs, transportation may be provided as follows:

1. student car pool
2. parent car pool
3. student hired adult (with chauffeur's license) to deliver and pick them up daily.
4. solicit the donation of a station wagon from a local auto dealer, and the school employ the driver.

Pupils may be assigned as guides to handicapped children by public carriers (bus), the school district pays the cost of transportation for the guides and for the handicapped pupils.

For mentally retarded, the administrator must see that safe and satisfactory equipment is ready for the class year. Evidence of approved safety inspection must be forwarded to the Department of Mental Hygiene and Correction with the "Transportation Report."

The administrator must inspect these buses regularly and shall familiarize himself with all routes or order extra trips to prevent overloading or excessive time required of children on the bus. No bus route shall be of such length that any child is required to spend more than 90 minutes on the bus.

Before starting on a route to pick up or discharge children, the driver must check headlights, tail and stop lights, warning lights, directional signal lamps, and other essentials as required by the Administrator.

Every child must be seated in an assigned seat. No vehicle shall be overloaded. A vehicle is considered overloaded when the load is in excess of ten percent of the rated seating capacity of the vehicle.

The division of special education my approve for reimbursement the actual costs of transportation up to $2.00 per day per child in average daily membership and one half of the actual cost in excess of $2.00 per day.

The division of special education may approve for reimbursement the actual costs of transportation on public transportation, and may also approve the actual costs for guide service for visually handicapped children, not to exceed $1.25 per day per child.

Special classes for neurologically handicapped (learning disabled) children may contain no fewer than eight nor more than ten pupils. The age range must not exceed 48 months.

Special classes for hearing impaired children must contain between six and eight pupils with an age range of not more than 48 months.

The active caseload for speech and hearing therapists must be no fewer than 60 and no more than 110 students. When precision therapy is utilized, the caseload must be modified accordingly.

Caseloads approaching the minimum size must have at least 30% of the children with language disorders, multi-handicapped conditions, or auditory difficulties requiring intensive treatment. Caseloads approaching the maximum size must have students whose speech, language or hearing disabilities lend themselves to larger group work or more rapid remediation. Class size for speech, language and hearing handicapped children is limited to a maximum of five students.

"A county board of mental retardation has a duty under R.C. 5126.03 to provide mentally retarded persons with necessary transportation without cost to and from facilities operated by such board within the county.

"A county board of mental retardation is not enetitled to receive special state reimbursement for transportation costs from facilities operated by such board." (Op. Att'y. Gen., March 6, 1973). See also Administrative Structure and Organization.

Class Size:	NUMBER OF PUPILS Minimum	 Maximum
EDUCABLE MENTALLY HANDICAPPED[1]		
Special Class - Slow Learning		
Elementary Unit - age range 24 months or less	12	20
Elementary Unit - age range 25-48 months	12	16
Secondary Unit - age range 24 months or less	12	22
Secondary Unit - age range 25-48 months	12	20
Secondary Unit Work Study Program	12	30
TRAINABLE MENTALLY HANDICAPPED		
Special Class	5	[illegible]
PHYSICALLY HANDICAPPED		
Primary or Intermediate Unit - age range 12-35 months	8	18[2]
Primary or Intermediate Unit - age range 36-48 months	8	14
Jr. or Sr. High School Unit - age range 12-35 months	8	18
Jr. or Sr. High School Unit - age range 36-48 months	8	16
EMOTIONALLY DISTURBED		
Special Class - Day Program	6	15[4]
Special Class - Residential Treatment Facility	8	12
MULTIPLY HANDICAPPED		
Special Class - Slow Learning Crippled Children[3]	8	12
VISUALLY HANDICAPPED		
Special Class - Primary or Intermediate Unit - age range 12-35 months	8	12
Special Class - Primary or Intermediate Unit - age range 36-48 months	8	10
Special Class - Jr. or Sr. High School Unit - age range 12-35 months	8	14
Special Class - Jr. or Sr. High School Unit - age range 36-48 months	8	12
Resource Program (caseload)	8	16
Itinerant Program	8	[4]

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[1] Class size may be adjusted downward for individual units at any age level where pupils with multi handicaps are enrolled.

[2] Age range not to exceed 48 months.

[3] A minimum of 4 of the children must be integrated into programs for hearing children.

[4] Depends upon age range, academic achievement, and degree of problem.

PRIVATE

School districts may receive from the state board, in addition to minimum foundation funds, an amount approved by the state department to provide services and materials for pupils attending non-public schools within the district for the deaf, blind, emotionally disturbed, crippled, and physically handicapped, including speech and hearing therapy services. The services presented to children in non-public schools of the state are on the same basis as those to children who are attending the public schools of the state. (See. **3317.06 ORS) (L)**

Monies paid to school districts under division (D) of section 3317.02 of the Revised Code shall be used to provide educational grants to parents of pupils attending grades one to 12, inclusive, in nonpublic schools within the school district, and to provide services and materials to pupils attending non-public schools within the school district for: guidance, testing, and counseling programs; programs for the deaf, blind, emotionally disturbed; crippled, and physically handicapped children; audio-visual aids; speech and hearing services; remedial reading programs.

Placements may be made to facilities within the district of residence. **(R)**

Private schools must adhere to public school standards. **(R)**

Notwithstanding sections 3317.01 and 3317.02 of the Revised Code, payments shall be made under this division to any city, local or exempted village school district within which is located one or more nonpublic elementary or high schools.

The allocation of payments for parental grants and for materials and services to city, local, and exempted village school districts shall be made on the basis of the state board of education's estimated annual average daily membership in nonpublic elementary and high schools located in the district.

Payments made to city, local, and exempted village school districts under this division shall be equal to specific appropriations made for the purpose.

Services, instructional materials, or programs provided pursuant to this division for pupils attending nonpublic schools shall not exceed in cost or quality such services, instructional materials, and programs as provided for pupils in the public schools of the district.

No school district shall provide services, materials, or programs for use in sectarian religious courses or devotional exercises. No educational materials provided shall be used in, especially suitable for use in, or selected for use in sectarian religious courses or devotional exercises.

The superintendent of the school for the deaf may pay the expenses necessary for the instruction of children who are both blind and deaf, who are resident of the state, in any suitable institution. **(L)**

Educational services, materials, and programs provided for the benefit of nonpublic school pupils under this division, and the admission of pupils to such nonpublic schools shall be provided without distinction as to the race, creed, color, or natural origin of such pupils or of their teachers. No services, materials, or programs shall be provided for pupils in nonpublic schools unless such services, materials, or programs are available for pupils in the public schools of the school district.

The state department of education shall adopt guidelines and procedures under which such programs and services shall be provided and under which districts shall be reimbursed for administrative costs incurred in providing such grants, services, and materials.

Funds distributed pursuant to this section shall not exceed specific appropriations made therefor by the general assembly, unless expressly approved by the emergency board or the controlling board.

In the following opinion the Attorney General Clarified the relationship between a private agency and a child welfare board. It was the Attorney General's opinion that, "although pursuant to Chapter 5127, and 5153, Revised Code, a county child welfare board may supervise classes for mentally deficient children, no statutory authority exists for the superivision of classes established by private agencies.

A county child welfare board is without authority to enter into a contract whereby the responsibility for the training of mentally deficient children is transferred to a private agency.

A county child welfare board may not accept state funds provided under Section 5127.03, Revised Code, or other sections, for the maintenance of training classes for mentally deficient children where such classes are operated by a private agency." **(Op. Att'y. Gen., December 4, 1959)**

"A private association, incorporated or unincorporated, may not operate a training center established purusant to Section 5127.01, Revised Code, and may not receive state funds pursuant to Section 5127.03, Revised Code, for the costs of operation, but members of any such association may be employed by the county child welfare board to operate a training center pursuant to Section 5127.01, Revised Code, for which the county child welfare board may receive state funds pursuant to Section 5127.03, Revised Code." **(Op. Att'y. Gen., April 6, 1960)**

"There is no statutory authority permitting state aid for a teacher who conducts training classes for mentally retarded persons where such classes are operated by a private organization."**(Op. Att'y. Gen., November 11, 1961)**

"A county board of mental retardation established under R.C. Chapter 5126, is unable to contract for the service of an administrator on a yearly basis in order to circumvent the civil service statutes of this state.

"A board of county commissionrs, but not a county board of mental retardation, may grant a salary in excess of the amount set forth in R. C. 143.10 for an administrator of a board of mental retardation." **(Op. Att'y. Gen., July 27, 1973)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary Teacher (Certificate No. EDb-301-08)
valid grades 1-8: professional education (29), general education (60)

Eligibility for High School Teaching Certificate (Certificate No. EDb-301-10)

valid grades 7-12: professional education (21), general education (30) plus specialization (20-60)

Eligibility for Special Education Certificate
bachelor's degree plus work in specialization - certificate based on well distributed areas of competency plus student teaching in the specialty.

FACILITIES

"The boards of education of any two or more school districts may, subject to the approval of the superintendent of public instruction, enter into agreements for the joint or cooperative construction, acquisition, or improvement of any building, structure, or facility benefiting the parties thereto, including, without limitation, schools and classrooms for the purpose of Chapter 3323, of the Revised Code, and for the management, operation, occupancy, use, maintenance, or repair thereof, or for the joint or cooperative participation in programs, projects, activities, or services in connection with such buildings, structures, or facilities.

"Any agreement entered into under authority of this section shall, where appropriate, provide for

1. The method by which the building, structure, or facility shall be constructed, acquired, or improved and by which it shall be managed, occupied, maintained, and repaired, and specifically a designation of one of the boards of education to take and have exclusive charge of any and all details of construction, acquisition, or improvement, including any advertising for bids and the award of any construction or improvement contract pursuant to the law applicable to such board of education;
2. The manner in which the title to the buildings, structures, or facilities, including the sites and interests in real estate necessary therefor, is to be held by one or more of such boards of education;
3. The management or administration of any such programs, projects, activities, services, or joint exercise of powers, which may include management or administration by one of said boards of education,
4. The manner of apportionment or sharing of all of the costs, or specified classes of costs, including without limitation cost of planning, construction, acquisition, improvement, management, operation, maintenance, or repair of such buildings, structures, or facilities, or of planning and conducting such programs or projects or obtaining such services, which apportionment or sharing may be based on fixed amounts, or on ratios or formulas, or effected through tuitions to be contributed by the parties or in such manner therein provided.

"Any agreement entered into under authority of this section may provide for:

1. An orderly process for making determinations as to planning, execution, implementation, and operation, which may include provisions for a committee, board, or commission, and for representation thereon;
2. Securing necessary personnel, including participation of teachers and other personnel from the respective school districts;
3. Standards or conditions for the admission or participation of students and others, including students from other school districts;
4. Conditions for admittance of other school districts to participation under the agreement.
5. Fixing or establishing the method of determining special charges to be made for particular services or materials;
6. The manner of amending, supplementing, terminating, or withdrawal or removal of any party from the agreement, and the term of the agreement or an indefinite term;
7. Designation of the applicants for or recipients of any state, federal, or other aid, assistance, or loans available by reason of any activities conducted under the agreement;
8. Designation of one or more of the participating boards of education to maintain, prepare, and submit, on behalf of all parties to the agreement, any or all records and reports with regard to the activities conducted under the agreement, including without limitation those required under sections 3301.14, 3313.50, 3319.132 to 3319.137, inclusive, 3321.12, 3323.08, and 3323.13 of the Revised Code.
9. Such other matters as the parties thereto may agree upon for the purposes of division (A) of this section.

"For the purpose of paying or contributing its share under an agreement made under this section, a board of education may:

1. Appropriate any monies from its general fund, and from any other funds not otherwise restricted by law, including funds for permanent improvements of such board of education where the contribution is to be made toward the cost of permanent improvements under the agreement;
2. Issue bonds, and notes in anticipation thereof, under sections 133.01 to 133.65, inclusive, and section 3311.20 of the Revised Code for any permanent improvement, as defined in section 133.01 of the Revised Code, to be provided under such agreement;
3. Levy taxes, and issue notes in anticipation thereof, under Chapters 3311 and 5705 of the Revised Code pertaining to such board of education, provided that the purpose of such levy may include the provision of funds for either or both permanent improvements and current operating expenses required as the share of such board of education under such agreement;
4. Contribute real and personal property for use under such agreement without necessity for competitive bidding on disposition of such property.

"Funds provided by the parties to an agreement entered into under this section, whether by appropriation, the levy of taxes, the issuance of bonds or notes, or otherwise, shall be transferred to and placed in a separate fund or funds of such participating board of education as is designated for such purpose under the agreement, shall be appropriated to and shall be applied for the purposes provided in such agreement, and shall be subject to audit and inspection and, pursuant to any determinations to be made as provided under such agreement, and shall be deposited, invested and disbursed under the provisions of law applicable to the board of education in whose custody said funds are held; and the records and reports of such boards of education under Chapter 117 of the Revised Code with respect to said funds shall be sufficient without necessity for reports thereon by the other boards of education participating under such agreement.

"As used in this section, 'construction, acquisition, or improvement of any building, structure, or facility' also includes acquisition of real estate and interests in real estate therefor, site improvements, and furniture, furnishings and equipment therefor. Buildings, structures, or facilities constructed, acquired, or improved under this section may, subject to the agreement be used for any lawful purpose by each party so long as the use thereof is an authorized proper use for that party.

"Any agreement entered into under this section shall be subject to any laws hereafter enacted making express reference therein to this section and requiring the transfer of any functions exercised or properties held under such agreement to any public officer, board, or body heretofore or hereafter established or requiring the termination of such agreement, or otherwise affecting the same.

"The powers granted in this section are supplementary to, and not in derogation of or restriction upon, all other powers of boards of education of school districts, and are to be liberally construed to permit the achievement of the objectives of this section and to permit the boards of education to take advantage of federal grant and loan programs, provided that the exercise of such powers shall be subject to such inspection and regulation as would be applicable if exercised under any other provision of the Revised Code."
(Sec. 3313.92 ORS)(1.)

For speech and hearing therapy services, a quiet, adequately lighted and ventilated room with an electrical outlet must be provided in each center for the exclusive use of the speech, language and hearing therapist, during the times scheduled at the center.

The space in each center must have one table with five medium size chairs, one teacher's chair, one bulletin board, one permanent or portable chalkboard, and one large mirror mounted so that the therapist and students may sit before it.

School districts must make available one portable individual pure tone audiometer for the use of the speech, language and hearing therapist. The audiometer should be calibrated annually, and shall be calibrated at least once every three years to American National Standards Institute Specifications.

School districts must make available one portable tape recorder for the use of each speech, language and hearing therapist.

School districts must make available one portable auditory training unit, or a similar instrument, for the use of each speech, language and hearing therapist.

Each speech, language and hearing therapist must have access to a locked file, a private office, a telephone and appropriate secretarial services.

For special class units for hearing impaired children, each special education unit must be housed in a classroom in a public school building which meets the standards adopted by the State Board of Education with children of comparable chronological age.

There must be adequate materials appropriate for the age, developmental ability and handicaps of the students in these units.

Each classroom housing a special education unit for hearing impaired children shall provide space adequate for the storage and handling of the special materials and equipment needed in the instructional program.

Each classroom shall be equipped with suitable auditory training equipment available for each child. Provision shall be made for maintenance and repair of all electronic equipment utilized in the program.

"Under R.C. 154.20, enacted pursuant to Article VIII, Section 2i, Ohio Constitution, state funds for the construction of mental health and mental retardation facilities may not be granted to private nonprofit corportations, with the exception of those corporation which are 'state supported or state assisted institutions of higher education'.

"Under R.C. 154.20, state funds for the construction of a mental health and mental retardation facility may be granted to a 'governmental agency', as defined in R.C. 154.01 which may then contract with a private nonprofit corporation for the operation of such facility, if so enpowered by the particular statutes relating to such governmental agency." **(Op. Att'y. Gen., February 13, 1973)**

STATE PROFILE

OKLAHOMA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the state and free from sectarian control. . ." **(Art. I, Sec. 5, Okla. Const) (L)**

Compulsory Attendance Law: A child, subject to compulsory attendance, is excused from these provisions if "he is prevented by mental or physical disabilities, as determined by the board of education, by a certificate of the school physical or public health physician, or if no such physician is available, a duly licensed and practicing physician. **(Sec. 70-10 OS) (L)**

All children who are so deaf or so hard of hearing that they cannot participate in the regular public school program shall receive an appropriate education at state expense. All school districts are responsible for identifying such children between the ages of 2 and 21, at the earliest possible age, under procedures prescribed by the state board. Every parent or other person having custody of such child must enroll the child at a school providing appropriate education. **(Enrolled House Bill, 1777, 1970) (L)**

Responsibilities: After September 1, 1970, all school districts must provide special education for all handicapped and exceptional children defined by this act. **(Sec. 13-1 OS) (L)**

POPULATION

Definitions: "Exceptional children shall mean gifted children, educable mentally handicapped children, trainable mentally retarded children, speech defective children, emotionally disturbed children or perceptually handicapped children, children with special health problems, children requiring the services of a visiting counselor, children with specific learning disabilities as a result of neurological impairment, multiple handicapped children, and other handicapped children of four years of age as of the first day of November of the school year, and blind or partially blind children and deaf and hard of hearing children two years of age or older who are bona fide residents of this state, whose condition is such that it is impracticable or impossible for them to benefit from or participate in any classroom program of the public schools in the districts in which they reside and whose education requires a modification of the classroom program." **(Sec. 13-1 OS) (L)**

A deaf child is a child whose hearing is "impaired to such a degree that it has prevented his acquiring speech and language in the normal manner."

A hard of hearing child is a child who "has a hearing loss which has not prevented his acquiring speech and language in the usual manner." **(R)**

"Children with learning disabilities are defined as those children with normal or potentially normal intelligence, who, because of some neuro-psychological factors, are noted to have learning disabilities of a perceptual, conceptual, or integrative nature. Children with major sensory and motor deficits such as the blind, the deaf, the cerebral palsied, the mentally retarded, or children whose learning deficit clearly is of emotional origin without concomitant neuropsychological factors, are excluded from this category." **(R)**

"Most speech disorders may be classified under one or more of the following terms: articulation, fluency, voice, delayed speech, and languages. Articulatory disorders present one of the most prevalent problems of the speech correction program, inasmuch as about three-fourths of the problems in a school population are in this classification." **(R)**

"Fluency disorders covers deviations in the rate or rhythm of the speaking voice. Stuttering, the most frequent problem in this category, usually combines the use of excessive effort in speaking with repetitions or hesitant speech utterance. Rapid or uneven rate in speaking and extremely slow and labored speech is frequently seen in individuals with neuromuscular disorders such as cerebral palsy." **(R)**

"Voice disorders include deviations in pitch, quality, or intensity. Voice quality may be considered defective if it is excessively nasal, denasal, harsh or breathy." **(R)**

"Disorders of language are receiving greater attention in today's public school speech therapy programs since the child's ability to use and understand language has a profound effect on his performance in other academic subjects." **(R)**

Age of Eligibility: Partially blind, blind, deaf, and hard of hearing children may begin receiving services at age two. All others begin at age four. Special education services end at age 21 except in special cases where a physical condition prevents a child from completing his program by age 21. In that case, services may be extended until the child reaches age 25. **(Sec. 13-105 OS) (L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Assessment and Placement: The board of education in which a child resides is responsible for determining the child's eligibility for special education under rules and regulations approved by the state board of education. Exceptional children must be reevaluated at least once every three years. Children eligible for special education services will be entitled to them for a minimum period of 12 years. If a child is transferred from one district to another, the state board of education may promulgate rules and regulations for the reimbursement to the local board for payment of services for psychologists and physicians necessary to determine the child's eligibility. If a child is accepted for special education and instruction, reimbursement will be made to the local board for expenditures made for necessary reevaluation. **(Sec. 13-2 OS) (L)**

Children referred by classroom teachers, parents, or community organizations or agencies should be given batteries of achievement, intelligence, and psychological tests. Parents and school systems are jointly responsible for different phases of evaluation. In some cases the county agencies may provide services. If parents are unable to provide medical attention for their children, the county health departments may provide the evaluation. **(R)**

Information generally required for placement of children is as follows: Medical examination, psychological examination, specialized examination and a written justification of any unusual findings.

Except for emotionally disturbed children, parental consent is not required for the child to receive special education services. However, in all areas of disability the school is urged to provide counseling and information to the parents, and to attempt to gain their cooperation at all stages of the identification, evaluation, and placement process. **(R)**

Identification of all deaf and hard of hearing children between two and 21 years of age is required by law.

A pure tone audiometric test is generally used. It should provide an indication of hearing loss in decibels. **(R)**

The placement of deaf and hard of hearing pupils depends upon the degree of severity of their hearing loss, and for deaf children, upon whether a local special class is available. (Otherwise, they are served at the state school for the deaf.) **(R)**

The eligibility of a child for admission to a special class for the deaf or the hard-of-hearing shall be determined by a qualified hearing specialist, who is approved by the state department of education. In addition, the child should be educable in order to be eligible for placement in a special class. Any child having an I.Q. lower than 70 should be granted placement on a trial basis only. His eligibility for permanent enrollment is dependent upon his ability to adjust to the classroom and profit from the instructions provided. **(R)**

It shall be the right of every child who is deaf or so hard of hearing that he cannot participate in the regular public school program to receive an appropriate education at the expense of the state.

Children are given individual evaluations by a qualified psychological examiner or medical doctor. The individual evaluation must include psychological and neurological tests. **(R)**

To be eligible for placement in a special education program, a learning disabled child must meet the following criteria: (1) normal or potentially normal intelligence (IQ 90 or above). In view of the current concept of the structure of the intellect, care should be exercised in testing so as to sample as many of the factors as possible. If a child cannot score in the normal range of any of the tests used, but the examiner feels the potential is present, he may make a special recommendation stating his reasons for suggesting such placement. Final determination of eligibility of special cases shall be at the discretion of the representative of the state board of education; (2) there must be some evidence of specific learning disabilities whose etiology can be inferred from psychological or neurological tests. This evidence should be able to support the inference of the presence of some neurological dysfunction; and (3) children whose major problem is emotional in nature are not eligible for placement in a class for children with learning disabilities. **(R)**

Pupils whose measured intelligence puts them into the slow learning category, and who are also learning disabled, may not be put into the same classes as learning disabled pupils of normal intelligence. However, separate classes for these children may be established under the general area of learning disabilities. **(R)**

If the speech therapist is not available to evaluate the child, the regular classroom teacher should encourage parents to have the child examined by a physician to find out if the defect is caused by some abnormality, such as a cleft palate, tongue tie, or hearing impairment. Audiometric tests are frequently necessary, for a child who does not hear adequately may not learn to speak correctly. If parents cannot afford medical examination, arrangements can be made through out-patient clinics in many state hospitals. Hearing and speech evaluation may be obtained through nearby college and university speech and hearing clinics for a small fee. **(R)**

In order to know how much improvement may be expected, it may be necessary to administer some sort of an intelligence test. Any of the well-standardized group tests may be used if individual tests are not available. If the child's speech is not understandable, a performance test may be administered by a qualified examiner. Help in psychological testing may be secured through various universities and colleges in the state. **(R)**

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

Attendance of children in special education classes will be included in the average daily attendance computation in the foundation appropriations programs for state aid. **(Sec. 13-1 OS) (L)**

No funds received by a district for special education are considered part of the chargeable income of the district for state aid purposes. Also, none of the funds for special education may be received for

1. any teaching unit or class with less than eight educable mentally handicapped children;

2. Any teaching unit for speech defective children with a number less than that specified by the state board of education.
3. Any teaching unit or class consisting of children who are both deaf and blind except for the program mentioned in "Services" which is a direct state program, or
4. any teaching unit or class organized with less than five of any other type of exceptional child. **(Sec. 13-8 OS) (L)**

Special education is now financed on a flat grant basis as follows: For each class that did not receive the $4500
grant in 1970-71, the district shall receive $4000 in 1971-72. All federal funds used in the special education must be
above the flat grants from state appropriations. Each class funded for $4500 in 1970-71 shall receive $4500 in 1971-
72. Each new class started in 1971-72 and 1972-73 shall receive $5000. $600,000 is appropriated to establish new
special education classes, and in no way may this be used by districts for existing classes. The legislature has precise
intention of establishing new programs in districts not presently offering programs and additional types of special
education in districts not presently offering such programs. They particularly wish, but not exclusively, to encourage
new classes for children with learning disabilities in districts not presently offering them.

"If any school district shall fail, neglect or refuse, for any reason whatsoever, to provide special education for a
handicapped exceptional child, certified as such by competent authorities and residing in such district, as directed
in Section 13-1 of Title 70 of the Oklahoma Statutes, the following is hereby authorized: Such child shall be en-
titled upon petition by the child's parent or guardian, without consent or approval of the school district not pro-
viding special education, to transfer to any adjacent or nearby school district which will accept the handicapped ex-
ceptional child and provide the special education which such child is entitled to receive. The school district in which
a child transferring under this section resides shall pay to the district receiving and educating such child, as tuition,
a special education transfer fee as provided in paragraph 2 of this section, provided the average daily attendance of
such child shall be credited to the home district of such transferee. The special education transfer fee shall be the
per capita cost of the receiving district for current expenditures for the special education of such handicapped ex-
ceptional child based upon the cost of teachers, equipment, material, and special costs associated with the special
education class. It shall be the duty of the school district from which such handicapped exceptional child transfers
to appropriate and pay such special education transfer fee to the district which receives and educates such child. If
a school district owing such special education transfer fees shall fail, neglect, or refuse for any reason whatsoever
to appropriate and pay such special education transfer fees, then the school district entitled to receive such fees
shall certify such fact to the finance division of the state department of education. Upon receipt of such certifica-
tion, the finance division shall deduct the amount of the special education fee from any state foundation program
or incentive aid otherwise due the sending district and transmit such amount to the receiving district." **(Sec. 9 and Sec. 10, House Bill 1163, 1971 Leg. Session) (L)**

ADMINISTRATIVE RESPONSIBILITY

The state board of education is responsible for establishing necessary rules and regulations, setting rates for reim-
bursement for physical and occupational therapists, teachers of homebound children, home to school telephone in-
struction, board and room for transferred handicapped children to attend a special class, travel for transporting
handicapped and exceptional children within or without the district, and also for teacher travel to provide these ser-
vices to handicapped children in homebound, cooperative, or county programs. **(Sec. 13-8 OS) (L)**

The state board of education is also authorized to prescribe the qualifications for all persons teaching exceptional
children, to define, classify, and determine the standards of eligibility for exceptional children for program partici-
pation, and to make any other necessary rules and regulations for the teaching of exceptional children. **(Sec. 13-5 OS) (L)**

The department of institutions, social, and rehabilitation services is responsible for the supervision of the state
schools for the deaf, blind and mentally retarded. **(Sec. 36-21 OS) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

School districts may fulfill the mandatory requirement of the law by joining in a cooperative program with
another district or districts to provide special education, or by transferring certified handicapped or exceptional
children into other school districts providing appropriate special education with the districts of residence paying
tuition. **(L)**

Two or more school districts may establish cooperative programs for exceptional children if such an arrangement
is approved by the state board. **(L)**

County superintendents of schools may establish and maintain special education programs, with the approval of
the state board. **(L)**

The state board of education may make provisions for boarding exceptional children who must be transferred
from their home school districts to school districts providing special education, but in no case may the reimburse-
ment from other state funds for this purpose exceed four hundred fifty dollars ($450.00) per child per year.

Reimbursement of inter-district transportation for exceptional children will be made when a school district pro-
viding special education services pays the transportation costs of the transferred pupil being transported from a
point in another district to its own special education class or school. **(L)**

The county superintendent of schools may expend county funds for the county program. Any school district or
districts located wholly or in part of the county may participate in the program and have the authority to contribute
school district funds either directly or by reimbursement to the county participating in such a program. **(L)**

The state board of education may make provision for boarding handicapped children specified in section 1 of the
Act who must be transferred from their home school district to school districts providing special educational facili-
ties. In no case shall reimbursement from the State Treasury for this purpose exceed $450.00 per child per year. **(R)**

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SERVICES

The state board has the authority to select school districts within the state to establish special programs for the partially sighted for the first through ninth grades. The selection of the districts, establishment of the programs, and determination of their eligibility will be in accordance with special education regulations and laws. State funds specifically appropriated for this program will be apportioned by the state board among the school districts providing programs. The apportionment and distribution will be on a per student basis and in accordance with state board rules and regulations. (Enrolled House Bill 1070, 1972) (L)

Class Size	NUMBER OF PUPILS Minimum	NUMBER OF PUPILS Maximum
LEARNING DISABLED	5	10
AURALLY HANDICAPPED	5	16
DEAF		
Special Class	5	16
SPEECH HANDICAPPED		
Speech Therapist (caseload)	75	100
EDUCABLE MENTALLY HANDICAPPED	8	20 22[1] 23[2]
TRAINABLE MENTALLY HANDICAPPED	5	10 12[1] 13[2]
PHYSICALLY HANDICAPPED	5	16
EMOTIONALLY DISTURBED		
Special Class	5	10
Visiting Counselor (caseload)	250	–
MULTIPLY HANDICAPPED		
Special Class	5	–
VISUALLY HANDICAPPED	5	16
BLIND		
Special Class	5	16

[1] If equivalent of one half-time aide is used.

[2] If one full-time aide is used.

For special transportation within the school district, the child must not be able to use the regular school transportation system to reach the building where special services are provided, and services must be unavailable in the school which the child would normally attend. The distance from home to the school to be attended must be greater than 1½ miles. The 1½ mile limit does not apply for physically handicapped children being transported to regular classes. (R)

Transportation may be furnished to special programs within the district or in another district, and to regular programs within the district for physically handicapped children who would otherwise be unable to attend the regular district school. (R)

Children may be transported in public school buses or by a private carrier. (R)

Reimbursement of inter-district transportation for exceptional children will be made when a school district providing special education services pays the transportation costs of the transferred pupil being transported from a point in another district to its own special education school or class.

When a school district providing special education services pays the transportation cost of a transferred pupil being transported from a point in another district to its own special education school or class, that school district may be reimbursed for the actual costs when a public carrier is employed. If a private carrier is used, the district may be reimbursed at a rate not to exceed six cents per mile to and from the school and the total annual reimbursement shall not exceed $450.00 per child. When more than one child is transported in the same private vehicle, an additional charge not to exceed three cents per mile per child may be made. Individual cases will be considered on their merit.

Reimbursement of intra-district transportation for exceptional children will be made according to the following regulations: services are not available in the school which the child would normally attend; the child cannot use the regular school transportation system to reach the building where special services are provided; distance must exceed 1½ miles from home to school to be attended.

The school district may be reimbursed for the actual cost when a public carrier is employed. If a private carrier is used, the district may be reimbursed at a rate not to exceed six cents per mile to and from school, and the total reimbursement shall not exceed $50.00 per month or $450.00 per child per year. When more than one child is transported in the same vehicle, an additional charge of not more than three cents per mile per additional pupil may be made. (R)

PRIVATE

Deaf, hard of hearing, and deaf-blind children are eligible for private placement. Local school board determines a child's eligibility. **(R)**

Districts are not reimbursed for educating deaf or hard of hearing children by contract in private schools. The state board may pay up to $5,000 annually for each deaf-blind child. **(R)**

Districts may initiate contracts only with schools in their district. State boards may contract with either in-state or out-of-state schools for services to deaf-blind children. **(R)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary (Certificate No. 7)

valid grades K-8: bachelor's degree, general education (50), professional education (21), elementary education (16), specialization (18), student teaching (9)

Eligibility for Secondary with Endorsements (Certificate No. 8)

bachelor's degree, general education (50), professional education (12), student teaching (9) specialization (varies)

Eligibility for Special Education (Certificate No. 12)

bachelor's degree, specialization (varies), academic area of concentration (18)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

OREGON

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The legislative assembly shall provide by law for the establishment of a uniform and general system of common schools." **(Art. VIII, Sec. 3, Ore. Const) (L)**

Compulsory Attendance Law. When it is determined according to the state board of education's criteria that a child is suffering from physical or mental illness or disease so severe as to make it impossible, or dangerous to his health or others' for him to attend school or to travel to and from school, the public schools must provide the child either home, hospital, institutional, or other regularly scheduled and suitable instruction unless the child is receiving suitable instruction in a state or regional facility or institution. **(ORS 339.030) (L)**

School districts do not have to keep the handicapped child in regular instruction if he cannot sufficiently profit from the work of the regular classroom. Districts also do not have to keep the handicapped child in a special class or instruction if it is determined the child can no longer receive benefits there or if he needs more specialized opportunity available elsewhere in the state. **(ORS 343.074[2]) (L)**

Any child over age 10, found to be mentally unable to benefit further from special education instruction, may be excluded permanently by the school board. **(ORS 336.090) (L)**

Responsibilities: Any school district having 12 or more mentally retarded children, who are eligible for special service for the mentally retarded, shall establish such services. **(ORS 343.441) (L)**

With the approval of the superintendent, any school board of any district with children under 21 years of age requiring special education shall provide special education for these children as part of the district's education program, or if the board considers a contract to be economically feasible, may, in the interest of the many opportunities available to children, contract for the instruction of these children in another district maintaining an appropriate program. The contract price of such instruction must equal the cost of special education. They may also use the clinical services of public agencies providing services for children. **(ORS 343.221) (L)**

Any school district having twelve or more emotionally handicapped children residing within the district eligible for a special program may apply for a program for such children and the district will be allocated funds under Section 14. Any intermediate district or any combination of districts may operate a special program. **(ORS 343.509) (L)**

"School districts, and not the State, have the primary responsibility for the education of mentally retarded children residing in the district. A retarded child of school age who has some capacity for learning must be admitted to the public schools, but such children over 10 years of age may be permanently excluded under the procedure prescribed by ORS 336.090 through 336.150. Under the further provisions of the 1947 Act, the administrative head of a school district must submit evidence of mental retardation to the Superintendent of Public Instruction, who receives the same and approves the exclusion request if in conformity with his rules and regulations. Any person having legal custody and control of the child who feels aggrieved may demand a hearing and provision is set forth therein for a review by the courts." Mandatory education exists for a handicapped child only between the ages of six and 10 years of age. It is up to the discretion of a school board to exclude a handicapped child from a special instructional class if it is felt the child cannot benefit from it. However, if the child is between the ages of six and 10, he or she has a legal right to attend the regular school in the district. **(Op. Att'y. Gen., August 1, 1957)**

POPULATION

Definitions: " 'Handicapped children' includes all children under 21 years of age who require a special education in order to obtain the education of which they are capable, because they are blind, partially sighted, deaf, hard of hearing, speech defective, crippled or physically handicapped, have extreme learning problems, are handicapped by being unwed and pregnant or by being unwed mothers with children in their care, or emotionally maladjusted to the extent that they cannot make satisfactory progress in the regular school program."

" 'Emotionally handicapped children' means children under the age of 21 who have a serious behavioral disorder to the degree that the child is unable to participate in a regular education program."

" 'Emotionally handicapped children' includes autistic, psychotic, neurologically or emotionally impaired, hyperactive, withdrawn and the child schizophrenic." **(ORS 343.505) (L)**

" 'Crippled or physically handicapped' means a disability which has been diagnosed as permanent or which is extended over a two month period." **(ORS 343.212) (L)**

" 'Trainable mentally retarded' means a mentally retarded person who is incapable of meaningful achievement in traditional academic subjects but who is capable of profiting to a meaningful degree from instruction in self-care, social skills and simple job and vocational skills, but does not include mentally retarded children as defined in ORS 343.410." **(ORS 430.760) (L)**

" 'Mentally retarded children' means children between the ages of 6 and 21 who, because of well established retarded intellectual development are incapable of receiving a common school education through regular classroom instruction but whose intellectual ability would indicate a possible scholastic attainment of third grade level with the benefit of special instructional methods and are competent in all aspects of the school environment except the academic." **(ORS 343.410) (L)**

"A deaf child is one whose sense of hearing is nonfunctional, even with a hearing aid; and who is unable to understand speech and develop language successfully without specialized instruction. Such children are classified as educationally deaf." **(G)**

"A hard of hearing child is one whose sense of hearing, although defective, is functional with or without a hearing aid, and who develops speech and language through his hearing." **(G)**

"A child is considered to have a speech problem when: (1) he has difficulty in one or a combination of the four parameters of speech: articulation, phonation, rhythm, and symbolization; (2) his speech deviates from the accepted general developmental age norms; (3) his speech difficulties interfere with communication; and (4) his speech difficulties cause emotional stress for him." **(G)**

"Children with extreme learning problems have potentially average or above average ability but show an inability
to profit from regular classroom methods or materials. They may be, or will become, extreme underachievers in
reading, spelling, or arithmetic. The broad category of extreme learning problems includes children described by
such terms as brain injured, neurologically handicapped, and educationally handicapped and children described as
having minimal brain dysfunction, dyslexia, or learning disabilities." **(G)**

Age of Eligibility: Special education services may be provided to educable mentally retarded children from age six to 21. **(ORS 343.410) (L)**

All other handicapped children are eligible for services from birth to age 21. **(ORS 343.212) (L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: A central registry of hearing impaired preschool and school age children is maintained by the board of education. Information on children with significant losses is provided by several state agencies that perform hearing evaluations. **(R)**

Screening: Regulations imply that handicapped children are generally identified by regular classroom teachers on
the basis of underachievement in some areas, but not in others, on the part of the child. **(R)**

The identification of hard of hearing children in public schools is probably best accomplished through planned
audiometric surveys supplemented by teacher referrals. One statewide screening program is administered by the
division of maternal and child health, state board of health. In addition to the state hearing testing program, several
other agencies identify hearing impaired children through diagnostic programs for preschool and school age children. **(R)**

The speech and hearing specialist is responsible for identifying speech impaired children and usually uses the following methods:

1. Speech survey: This serves as the most effective means for locating children who are in need of speech help.
   A complete survey needs to be made only once. In subsequent years it is only necessary to survey: (1) chil-
   dren new to the primary grades; (2) children new to the district; (3) children previously identified as having
   speech, language and/or hearing problems; (4) children retained from preceding year's classes; and (5) children
   referred from other sources.
2. Referral: This method may be used when districts lack sufficient staff or when circumstances prevail which
   prohibit a survey. Referrals are usually made by the classroom teacher; however, referrals may also come from
   outside sources such as parents, physicians, and speech and hearing centers.

Assessment and Placement: In order to be eligible for special education, a handicapped child must be certified for
such services by the superintendent of public instruction or under an approved school district program. Certifica-
tion requires a determination made on the advice of qualified educational and medical authorities that the child has
the mental health and ability to benefit from special education and must include a medical examination. The school
district may waive a medical examination of children eligible for special education because of speech defects or ex-
treme learning problems. A medical or visual examination may be required of the children who have received special
education but have not made satisfactory progress. Mentally retarded children enrolled in a special instructional
facility are eligible for participation in the parts of special education which the superintendent of public instruc-
tion authorizes. Examinations must be given by a licensed physician in the cases of a medical exam and by an op-
thalmologist or optometrist licensed by the state of Oregon in the case of a visual examination. **(ORS 343.227) (L)**

After consulting with parents, staff and administrative personnel of public and private agencies and organizations including the Children's Services, the mental health division and other agencies which serve the needs of handicapped children, school district administrative officers shall have control over placing children under their jurisdiction who are found eligible to participate in special education programs. If the child has been certified as eligible for special education or placement in a special instructional facility the parent or guardian must enroll the child in the program for which he is eligible. **(ORS 343.075)(L)**

To be eligible for placement in a special instructional facility an emotionally handicapped child must be certified by the superintendent as eligible for these services. Certification requires a determination made on the advice of qualified educational or medical authorities that the child has the ability to profit from placement. **(ORS 343.515) (L)**

School districts may use clinic services of public agencies which provide psychiatric services for children.

Before being placed in a special education program, children must be certified. Currently, two methods of child certification exist: (1) school districts that have a special arrangement with the Oregon board of education are permitted to "certify" children at the district level; and (2) other districts not under special arrangement but operating state approved programs are required to submit specific forms for each child who receives special education services. **(R)**

The following is required before a child can be certified as eligible for the program for children with extreme learning problems:

1. mental ability evaluation: an individual test of intelligence such as the Stanford-Binet or appropriate level Wechsler test is strongly recommended. It is required that the teacher of children with extreme learning problems have sufficient evidence to conclude that the handicapped child has the ability to benefit from the planned service;
2. educational evaluation: standardized tests or informal inventories (obtaining the proper instructional level) may be used for certification in reading, spelling, and/or arithmetic. Standardized tests may be either silent or oral but must measure the ability to read connected paragraphs rather than recognize isolated words. If standardized achievement test scores are used, informal measures are highly recommended for additional information. In evaluating preprimary and primary grade children, various areas of language and sensory - motor performances may be tested rather than academic achievement;
3. case study: the case study approach for selecting children is strongly recommended. The psychological, educational, and medical data should be interpreted in light of all other data. Relevant social, environmental, and personal factors should be considered. The case study should continue along with instruction; and
4. a medical examination is recommended in cases where learning problems may be associated with neurological difficulties, vision, or hearing problems, or with children who after thorough educational study and testing

that they have a learning disability that requires special education in order to obtain the education of which they are capable and when they have the mental health and ability to benefit from special education. Specific criteria for determining eligibility will depend in part of the ages and grade levels of the children. **(R)**

Children who have a hearing impairment require critical evaluation of language development, school achievement, and use of residual hearing. Assessment should be provided periodically in order to determine if the child is functioning as a deaf or hard of hearing child. Whenever possible, the written language of the child should be evaluated along with speech and spoken language. **(R)**

Children under the age of 21 years are eligible for special education services if they are "certified" as either deaf or hard of hearing. **(R)**

The basis for the selection of children to receive speech help must include:

1. an individual diagnostic speech evaluation including observation of the speech structure;
2. general examination by a physician when indicated;
3. referral of children with voice problems to a physician when indicated; and
4. an individual intelligence test when indicated.

The child must have the mental health and ability to benefit from special education. The selection of children to receive speech therapy shall be made by an Oregon certified speech and hearing specialist. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The superintendent may establish criteria to guide the development and operation of special programs and may apply these criteria in certifying the programs for reimbursement. **(ORS 343.045) (L)**

The superintendent shall administer all programs of special education subject to the approval of the state board. He will be responsible for establishing rules relative to the qualification of teachers, supervisors, work experience coordinators, courses of study, methods of instruction, admission diagnosis, and eligibility of pupils, size of special facilities, rooms and equipment, supervision, territory to be served, and any other necessary rules. He may also use funds appropriated for the program for preservice and inservice education of teachers. **(ORS 343.055) (L)**

The superintendent is responsible for employing personnel qualified by training and experience to supervise the types of services required by the special programs. Such personnel will assist school districts, county and regional facilities and hospitals in the organization and development of special programs and will have the general supervision of the programs to assist school districts in obtaining required services, equipment and materials, particularly where the number of children is too small to justify district purchase of equipment and materials. **(ORS 343.065) (L)**

The age range and number of children placed in special programs for the emotionally handicapped will be in accordance with the rules and regulations and guidelines of the superintendent for teacher preparation and operation of special programs for emotionally handicapped children. **(ORS 343.509[3]) (L)**

The schools for the deaf and blind are under the supervision of the superintendent of public instruction. **(ORS 346.020) (L)**

It is the responsibility to the State schools for the blind and deaf to determine whether weekend trips home are conducive to the development and welfare of the children. If weekend trips home are deemed necessary, then this cost is considered a necessary travel expense of the student. If the child is indigent, then the county would be billed for this weekend travel expense. **(Op. Att'y. Gen., October 20, 1965)**

PLANNING

Planning is the responsibility of the school districts; however, the state board of education offers consultation services. A district's plan would include but would not be limited to statements about: identification and referral procedures; eligibility criteria; administrative and operational guidelines; a description of the instructional program; facilities, supplies and equipment; staff requirements; transportation; other agencies and organizations; and any community problems involved in the operation of the program. In addition to these considerations, the district should describe how the program will be supervised and administered. **(R)**

A state advisory council for emotionally handicapped children with nine members appointed by the state superintendent is established. The members must include one member or representative of the state board, three parents of emotionally handicapped children, and educators and professional persons associated with the diagnosis and treatment of emotional problems. All members except the members of the state board must be members of local advisory councils and representative of all geographic areas in the state. The superintendent shall consider recommendations of the local council when making appointments. The state council will review all aspects of the statewide program for educating emotionally handicapped children and advise the superintendent and the state board on these programs. **(R)**

Every school district, combination of districts or intermediate education district operating a special program for emotionally handicapped children must appoint a local advisory council consisting of at least five but not more than seven members including two parents of emotionally handicapped children. The other members shall be educators and professional persons associated with the diagnosis and treatment of emotional problems. The advisory council shall select its own chairman and vice chairman and fix the duties of its officers. Local advisory councils will review all aspects of the special program and report to the local board(s) or to the intermediate education district. The local councils will also recommend to the superintendent appointments to the state advisory council for emotionally handicapped children. **(R)**

FINANCE

Districts will be reimbursed for the operation and administration of special education programs in the following manner:

1. A district must submit to the superintendent an estimate of the cost for providing special education for the following school year.
2. A district which provides special education or expends more than the regular per capita cost on home or hospital instruction of crippled or physically handicapped children must file with the superintendent by October 1 following the close of the school year for which the reimbursement is claimed a notarized claim and any other information required by the superintendent for reimbursement.
3. If the superintendent approves the application of the district for reimbursement he will then reimburse the district in an amount not exceeding one and one-half (1-1/2) times the per capita cost of instruction for other children of the district. Except in the case of home or hospital instruction, reimbursement will be made only for the costs which are in excess of the per capita cost of the district.

If available funds will not permit full reimbursement, all districts claiming over $500 will receive a prorated reimbursement based upon the ratio that the total amount of funds available bears to the total amount of funds required for full reimbursement. **(ORS 343.281) (L)**

Funds appropriated for special education will be used to reimburse districts for special education programs, reimburse the state board of higher education, and purchase special equipment and supplies to loan to school districts and county and regional programs. Such equipment and supplies may be only those required by children needing special education; to train teachers in special education, and to pay any other expenses for the proper administration and operation of special education programs. If federal funds are made available on a matching basis for special education, state funds may be used to match federal funds. **(ORS 343.285) (L)**

Any district or combination of districts operating an approved program for emotionally disturbed children must file by October 1 following the close of the school year for which reimbursement is claimed a verified claim with the superintendent. The claim must include the names of all children enrolled in the program during the school year for which the reimbursement is claimed. **(ORS 343.535) (L)**

Reimbursements to districts for operating and administering special instructional facilities approved by the superintendent will be made in the following manner:

1. A district must submit to the superintendent an estimate of the costs for the following school year.
2. A district providing special instructional facilities shall file with the superintendent by October 1 following the close of the school year for which reimbursement is claimed a notarized claim and any other information required by the superintendent for reimbursement for which the district is eligible for the cost of operation of the special instructional facilities.
3. If the superintendent approves the application of the district for reimbursement, he will then reimburse the district in the amount of the total cost approved by the superintendent if the cost of the program exceeds the per capita cost of instruction of other children in the district. The superintendent will determine the eligibility of programs for reimbursement. Only programs that meet the standards for such programs and for which funds will be appropriated or otherwise available shall be approved. **(ORS 343.540) (L)**

Funds appropriated for special programs for the emotionally handicapped may be used to:

1. reimburse districts for authorized programs;
2. pay any other expenses necessary to administer and operate special programs; and
3. match federal funds when they are available on a matching basis for such a program. **(ORS 343.545) (L)**

"The Superintendent of Public Instruction has authority to reimburse school districts for the salary of a supervisor of a special instruction facility for the mentally retarded only where the supervisor is employed full time in supervision of a minimum of eight classes." **(Op. Att'y. Gen., July 12, 1965)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If it is more economical or effective to do so, the superintendent of public instruction may provide special education on a county or regional basis. Through the establishment of county and/or regional programs, he may operate and administer the programs or he may delegate full responsibility for the operation of the programs to a school district in which the program is located or to another authorized education public agency. **(ORS 343.236) (L)**

Eligible handicapped children who need special education service not available to them in the school district in which they are legally resident may be transferred to another school district where the special service is available. Special transfer arrangements are usually made between districts through an interdistrict agreement. In some cases, school districts may also work cooperatively with the Oregon board of education in setting up the transfer. The school district in which the child is legally resident may be reimbursed up to one and one-half times its per capita cost for the excess cost involved in the transfer. When reimbursement is anticipated, prior approval must be obtained from the superintendent of public instruction. **(R)**

School districts may also cooperate with public agencies providing psychiatric services for children to establish clinical elementary and high school services for children who are maladjusted or have extreme hearing difficulties. **(R)**

Any district enrolling a child in a district other than that in which he would regularly be enrolled to obtain special education must continue to pay to the district in which he is enrolled a sum equal to the cost of educating a child in the district in which he is enrolled. Any school district providing special education in the form of a special class or school must contribute a sum not less than the elementary or secondary per capita cost of educating the children had they been enrolled in the district. **(R)**

SERVICES

" 'Special education' includes special instruction for handicapped children in or addition to, regular classes, special classes, special schools, special services, home instruction and hospital instructions." **(L)**

" 'Special services' includes transportation, rate or service, special equipment, psychometric testing and such other materials and services as are approved by the superintendent of public instruction." **(ORS 343.212) (L)**

Deaf students attending a university, college, or other suitable school are eligible for a state grant to help defray expenses. The applications for the grants must be approved by the Oregon state board of control and may not exceed $500 in any one year. **(ORS 346.070) (L)**

" 'Special program' means a full-time school program in the public schools for eligible, emotionally handicapped children which adequately provides for their education and which has been approved by the superintendent of public instruction." **(ORS 343.505[2]) (L)**

School districts may receive reimbursement for excess costs involved in providing transportation for handicapped children when such transportation is different from that regularly provided for children in the district. **(R)**

Class Size:	NUMBER OF PUPILS	
	Minimum	Maximum
LEARNING DISABLED		
Resource or Itinerant Program (weekly caseload)	12-15	20-25
AURALLY HANDICAPPED		
Itinerant and Hearing Clinician	--	--[1]
Speech and Hearing Therapy	1	3
SPEECH HANDICAPPED		
Itinerant Program (weekly caseload)	25	50
EDUCABLE MENTALLY HANDICAPPED		
Special Class - Elementary	--	15
Special Class - Secondary	--	18[2]
EMOTIONALLY DISTURBED		
Special Class	8	--[3]
VISUALLY HANDICAPPED		
Special Class (blind or partially seeing)	8	--
BLIND		
State school or regular class placement	--	--

[1] Should permit clinician to instruct children individually or in groups of two or three no less than three times a week

[2] In any one scheduled class period

[3] Minimum staff one teacher and one teacher aide

PRIVATE

Special funds appropriated to the state board may be used by them to contract with and pay an educational institution within or without the state to educate educable children who are deaf, mute, and blind. Funds such as these may also be used to purchase and prepare equipment and supplies to be loaned to school districts and county or regional programs which provide programs for the education of blind or partially seeing children in the public schools. **(ORS 343.301) (L)**

The state board of education may use appropriated funds to contract with private institutions to educate educable deaf-blind children. **(ORS 343.301[3]) (L)**

Placements may be authorized with facilities both in and out of state. **(R)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary Certification (Certificate No. 4)

valid K - 8: bachelor's degree, elementary education including student teaching (20)

Eligibility for Secondary Certificate (Certificate No. 5)

valid 9-12: bachelor's degree plus 30 hours upper division or graduate work including professional education p

valid 9-12: bachelor's degree plus 30 hours upper division or graduate work including professional education (24) and complete teaching norms as established in "Standards for Public Secondary Schools in Oregon, 1956."

FACILITIES

STATE PROFILE

SOUTH CAROLINA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the State and shall establish, organize and support such other public institutions of learning as may be desired." **(Article XI, Section 3, S.C. Constitution) (L)**

Compulsory Attendance Law: A child between ages seven and 16 inclusive is exempted from the compulsory attendance requirements if he:

1. obtains a certificate from a psychologist who is certified by the state department of education or from a licensed physician stating that he is unable to attend school because of a physical or mental disability, and there are no suitable or special classes available for the child in his district of residence, or
2. was 10 years of age or older and had been out of school for three years or more when the law was enacted; again, providing there were no special classes in the school district for him to attend. **(Sec. 21-757.2(b), (d) S.C. Code) (L)**

Policy: The General Assembly finds it necessary and proper to provide an appropriate education for all handicapped children and youth in the public schools who are eligible for enrollment. **(Sec. 1 Act 977, 1972) (L)**

The law specifically states that the state board of education may promulgate such rules and regulations, not inconsistent with law, as it shall deem necessary and proper for the effective administration of programs for the education of handicapped children.

Responsibilities: The state board of education shall establish a program of specialized education for all handicapped children in the state. . . **(Sec. 2, Act 977, 1972) (L)**

The General Assembly finds that appropriate education can be best accomplished for handicapped children through implementation of an intensive five-year plan to expand and improve existing programs. The purpose of this act is to provide for the mandatory establishment of educational and training services and facilities for handicapped children in the public schools between the ages designated in Section 21-752 of the 1962 Code who cannot be adequately trained without special educational facilities and services. **(Sec. 21-295.10 S.C. Code and Sec. 1 Act 977, 1972) (L)**

The Attorney General was asked whether Act No. 977 of 1972, entitled "An Act to Establish a Mandatory Program for Education of Handicapped Children in Public School" really mandated the establishment and maintenance of programs for the handicapped by local school systems. His opinion was that it did. In addition, the Attorney General said that not only does this Act mandate it, but probably the State and Federal Constitution does also. He cited the *Mills v. District of Columbia Board of Education* suit as evidence of this.

A question was also asked regarding the date on which the Act must be implemented. According to the Act, the local school districts had one year to draw up a plan to be approved by the State Board of Education. Theoretically, then, if a plan was never approved, the district wouldn't have to provide education. The attorney general again said that, based on State laws and the Federal Constitution, local districts must with "all due speed" implement programs. School districts may contract with other school districts to provide special education for its handicapped students. However, a local school system may not contract with a non-public agency unless it is also considered a school district. **(Op. Att'y. Gen., July 17, 1973 and December 20, 1972)**

There is no law which provides for the compulsory attendance of a deaf and/or blind child to the South Carolina School for the Deaf and the Blind. Article 7, Section 5466 of the 1942 Code directs that all children between certain ages attend some school, but it is not compulsory to send a child to a school outside the district of residence. **(Op. Att'y. Gen., December 29, 1952)**

POPULATION

Definitions: " 'Handicapped children' shall mean those who deviate from the normal either psychologically or physiologically to such an extent that special classes, special facilities or special services are needed for their maximum development, including educable mentally handicapped, trainable mentally handicapped, emotionally handicapped, hearing handicapped, visually handicapped, orthopedically handicapped, speech handicapped, and those handicapped by learning disabilities as defined in **Sec. 3 Act 977, 1972 and Sec. 21-295.12 S.C. Code.**"

1. "Special education program means educational services carried on through special schools, special classes and special instruction
2. "Educable mentally handicapped pupils means pupils of legal school age whose intellectual limitations require special classes or specialized education instruction to make them economically useful and socially adjusted.
3. "Trainable mentally handicapped pupils means pupils of legal school age whose mental capacity is below that of those considered educable, yet who may profit by a special type of training to the extent that they may become more nearly self-sufficient and less burdensome to others.
4. "Emotionally handicapped pupils means pupils of legal school age with demonstrably adequate intellectual potential, who because of emotional, motivational, or social disturbance require special classes or specialized education instruction suited to their needs.
5. "Hearing handicapped pupils means pupils of age four or older who are certified by a licensed specialist that their hearing deficit requires special classes or specialized education instruction suited to their needs.
6. "Orthopedically handicapped pupils means pupils of legal school age who have an impairment which interferes with the normal functions of the bones, joints, or muscles to such an extent and degree as to require the school to provide special facilities and instructional programs.
7. "Visually handicapped pupils means pupils of legal school age who either have no vision or whose visual limitations after correction result in educational handicaps unless special provisions are made.
8. "Learning disabilities pupils means pupils with special learning disabilities who exhibit a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling or arithmetic. They include conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, developmental aphasia, etc. They do not include learning problems which are due primarily to visual, hearing, or motor handicaps, to mental retardation, emotional disturbances or to environmental disadvantage.
9. "Physically handicapped children means children of sound mind and of legal school age who suffer from any disability making it impracticable or impossible for them to benefit from or participate in the normal classroom program of the public schools." **(Sec. 21-295 S.C. Code (1-9), 1972 Revisions) (L)**

Age of Eligibility: Children are eligible for services from the ages six to 21 inclusive, except for children with hearing impairments who are eligible at age four years. **(Sec. 21-752 S.C. Code) (L)**

21.295.3 of the 1967 South Carolina Code of Laws outlines the types of special education reimbursable by the State. A minimum number of students must be in a class. "No provision is made for the grouping of children with different handicaps in order to establish the minimum required." **(Op. Att'y. Gen., December 4, 1968)**

The definition of mentally retarded, under the 1963 "Act to Provide for the South Carolina Retarded Children's Habilitation Center" has no age limitation, but only referred to those "who, because of inadequately developed intelligence are significantly impaired in their ability to learn to adapt to the demands of society."
(Op. Att'y. Gen., September 11, 1965)

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: Each school district individually or in combination with other school districts shall conduct a survey of the educational needs of all handicapped children within its jurisdiction and, with the assistance of the state department of education, devise an educational plan for the children concerned. This plan shall provide instruction through the use of resource rooms, crisis teachers, itinerant teachers, diagnostic/prescriptive teachers, self-contained classes, or other models approved by the state department of education. The plan shall be presented to the department for approval within one year after February 14, 1972. An annual report shall be made by each district to the department to indicate the extent to which the plan has been implemented and to report additional planning. **(Sec. 21-295.13 S. C. Code) (L)**

Screening: The county department of health is responsible for examining school children of preschool age for physical handicaps that might interfere with their physical and mental development. The department notifies parents of any handicaps and encourages correction of remediable defects. **(Sec. 32-169(5) S.C. Code) (L)**

Assessment and Placement: Each school district should provide a hearing testing program designed to identify pupils who have hearing adequate for classroom instruction and those who need further in-depth testing. Threshold testing should be done for those pupils who fail the screening, as a means of identifying those pupils who need further testing or a medical examination, preferred seating, etc. All testing should be done with the use of an audiometer and by a person qualified to administer such tests and interpret the results.

Each pupil should be screened at the 500, 1,000, 2,000, 4,000, and 8,000 frequencies at an intensity of 25-30db (ISO), depending upon the noise level of the building in which testing is being done. Pupils who fail to hear the tone at as many as two points in either ear should be rechecked to determine the exact pattern of hearing of the individual.

Pupils who are rechecked should be referred to an audiologist, otologist, or otolaryngologist if they average as much as a 30db loss (ISO) in the 500, 1,000, and 2,000 frequencies at either ear. Those who hear well at these frequencies but have a rather severe loss at the 4,000 and/or 8,000 frequencies may, at the discretion of the evaluator, be referred to one of the above named specialists, if only as a precautionary measure. Preferred seating should be recommended for pupils needing such assistance in order to overcome or compensate for hearing loss.

All pupils in the school system should be tested in the first year. Each year thereafter, the following grades should be tested: K-4, 7, 9, and 11. Each year referrals from the teachers should be tested, as well as any new pupils moving into the school district.

Each pupil having a significant hearing impairment shall have a complete medical examination and hearing evaluation by an audiologist, otologist or otolaryngologist. The report of the examiner should include an explanation of the nature, extent and prognosis of the hearing impairment as well as an assessment of the functional educational level of hearing. An individual psychological examination may be needed if mental retardation or emotional disturbance is suspected.

Each school district should design and implement a continuous screening process for all school aged pupils to identify all children with learning disabilities. By employing an ongoing, systematized screening program in K or 1-12, the district will be able to plan a more effective program. Pupils should be screened on the basis of: (1) referrals from teachers, parents, psychological services, guidance counselors, or other personnel, (2) recommendations from physicians or mental health centers, (3) educational test data such as readiness test results, group achievement and/or group intelligence tests.

Candidates must fall within the average or above average range of intelligence or must be judged to possess such potential, based upon findings of a psychological examiner certified by the state department of education. The examiner must administer at least one individual intelligence test and at least two other tests of psychological function of the observed difficulty, such as a test for auditory perception, visual perception, or communicative disorders. The examiner should include in his report a description of any noted behavioral problem, the degree to which the child recognizes his problem, an estimate of the child's potential for growth and ability to profit from special placement, and recommendations for educational planning. Also, at least one individual achievement test should be administered to appraise those academic areas in which the candidate is experiencing difficulty.

It is recommended that a school social worker or other appropriate person secure an extensive history of the child and his family, including a parental evaluation of the child's present difficulties, a history of all childhood illnesses, including age of child at the time of illness, symptoms, severity, course and care (such as physician in attendance, or hospitalization).

It is also recommended that when deemed necessary, an examination be administered by a licensed physician, neurologist, ophthalmologist, optometrist and/or audiologist.

A speech clinician approved by the state department of education should screen all kindergarten, first and third graders, new students and teacher referrals. A standard screening test of articulation should be used. The criteria for failure should be based upon the judgment of the clinician.

Each district shall require that a complete evaluation by a speech clinician certified by the state department of education be completed on those children failing the screening examination. The evaluation instrument should be chosen by the clinician. Areas to be evaluated should include articulation, language, oral peripheral mechanism and others deemed necessary by the clinician.

Hard-of-hearing and deaf pupils ideally should not be mixed in the same class. Certain circumstances, however, may dictate a limited amount of mixing, and each situation should, therefore, be evaluated on its own merit.

Readmission to a regular classroom should be attempted when possible. This may involve returning to the class for hearing impaired for a portion of the day until readjustment is completed.

Pupils whose primary handicap is a hearing loss should not be included in special education classes with pupils whose primary or only disability is other than a hearing loss.

Following evaluation by the local speech clinician, individual placements will be made by the clinician with the approval of the local school superintendent. When evaluations are administered by visiting personnel, recommendations will be made to local school administrators with suggestions for classroom aid until a local clinician is employed.

A placement committee appointed by the superintendent should review the cumulative record, health record, case

history, and psychological report and make recommendations to the school administrator regarding placement in the special class.

For mentally handicapped (educable or trainable) and hearing handicapped children, the committee should consist of at least three members. For emotionally handicapped children it should consist of not less than five members and may vary from child to child. Persons chosen should have had contact with the child and/or his family and should represent as many different professions as possible. The committee may include: (1) superintendent; (2) principal; (3) supervisor of special education; (4) regular homeroom teacher (emotionally disturbed); (5) psychiatrist (emotionally disturbed); (6) special education teacher (especially for emotionally disturbed); (7) school counselor; (8) school nurse; (9) psychologist; (10) physicians; (11) social worker; (12) other appropriate personnel.

The committee should make recommendations concerning each child's admission, retention, and dismissal from the special education program and be responsible for reviewing each child's case at least twice during the academic year.

The committee should recommend specific educational, social, and emotional goals and methods for achieving them while the child is in the special education program.

Pupil personnel records shall be maintained in such a manner as to clearly indicate the screening, evaluating, and placement processes employed to assign the pupil to a program for handicapped pupils. Records shall reflect a history of the educational training and services provided and the children participating in the program. **(Act No. 977, Section 5) (L)**

Local school districts should secure written parental permission before proceeding with pupil testing and/or placement.

Speech handicapped children may be referred and evaluated by a speech clinician certified by the state department of education.

The above mentioned policies are derived from "The Standards and Proceedures for Implementing the Provisions of Act No. 977 of the Joint Acts and Resolutions of South Carolina (1972)." These procedures and standards were approved by the state board of education on January 12, 1973, pursuant to **Sec. 21-295.5** and **Sec. 21-295.7, S.C. Code**.

Special Education Evaluation: Local school authorities, with the assistance of the state department, are responsible for determining by tests and special examinations, eligibility for special education. No handicapped child is considered eligible without a certified diagnosis by appropriate professional authorities who are acceptable to the state department. The department is also responsible for establishing rules and regulations for screening, classifying and determining, through use of standardized tests and necessary psychological and medical services, eligibility for special education services. **(Sec. 21-295.5 and Sec. 21-295.7 S.C. Code) (L)**

ADMINISTRATIVE RESPONSIBILITY

The state board shall establish a program of specialized education for all handicapped children utilizing the personnel and facilities of and administered by the state department under the direction of the state superintendent and shall prescribe standards and approve the procedures under which facilities are furnished and services provided. The board shall establish screening, evaluation, and placement procedures for handicapped students who will participate in programs and shall determine certification requirements for teachers, minimum room size standards, and standards for other equipment and materials used in the programs. The board may promulgate such rules and regulations as it deems necessary and are not inconsistent with law. **(Sec. 2, Act 977, 1972) (L)**

The department of education is responsible for supervising the special education program pursuant to **Sec. 21-295.1-3** as follows:

> The special education program shall be under the supervision of the state department of education. The state superintendent of education shall expand the services of the state department of education to include through the division of instruction a more extensive program of special education for physically and educable mentally handicapped children in the various school districts of the state. **(Sec. 21-295.1, S.C. Code) (L)**
>
> The state superintendent of education may employ on the staff of the state department of education additional personnel, if such be necessary, of suitable professional qualifications, whose duties shall be, under the direction of the state superintendent of education, to help develop and supervise the special education program authorized in this article. The state superintendent of education is authorized to pay the salary of such additional personnel from the appropriation to the state department of education for the hard of hearing and speech program. **(Sec. 21-295.2, S.C. Code) (L)**

The state mental retardation department is responsible for administering the South Carolina Retarded Children's Rehabilitation Center. **(Sec. 32-927.12 S.C. Code) (L)**

The State School for the Deaf and Blind is administered by a board of commissioners with the state superintendent of education and the state health officer serving as ex-officio members. The superintendent, elected by the board of commissioners, shall be the immediate executive head of the institutions and shall also be responsible to the board of commissioners. **(Sec. 22-451 and 22-456 S.C. Code) (L)**

The General Assembly will appropriate funds with initial funding for planning and organizing to begin with fiscal year 1972-73. Costs of all programs for handicapped children shall be shared with the school districts on the same basis that education costs are currently provided for such children attending the public schools. These provisions are supplementary to all existing programs for the education of handicapped children. **(Sec. 7, Act 977, 1972) (L)**

Since the South Carolina Retarded Children's Habilitation Center is not an institution for the insane, it may function separately from a Board of Regents. It may function under a Board of Trustees and have a Superintendent who is not a physician. **(Op. Att'y. Gen., May 6, 1963)**

PLANNING

All school districts individually or in combination with other districts must conduct a survey of the educational needs of all handicapped children within their jurisdictions and with the assistance of the state department devise an educational plan for handicapped children. This plan must provide instruction through the use of resource rooms, crisis teachers, itinerant teachers, diagnostic-prescriptive teachers, self-contained classes or other models approved by the state department. The plan must be presented to the department for approval within one year after the effective date of this act. An annual report must be made by each district to the department to indicate the extent to which the plan has been implemented and to report additional planning. **(L)**

The board of trustees of all school districts, upon approval of their plan, must establish and operate programs insuring an appropriate education for each handicapped child within their district and must maintain adequate records of the training and services provided and the children participating in the program. When a school district cannot satisfy these requirements because there is an insufficient number of resident handicapped children, the district may contract with other districts within the state or with school systems or institutions outside South Carolina maintaining approved special educational facilities. The sending district must document this lack of numbers and receive prior approval from the state department. The sending district may contract and pay the receiving district or institution the per capita costs of instruction, special equipment, and special services not reimbursed to the receiving district by state, federal, and other monies, plus the cost of transportation and of maintenance if the nonresident child must reside away from home. The district entering into the nonresident contract arrangements approved by the state department is reimbursed by the department for tuition fees, transportation, and books, not exceeding the per pupil cost of educating a handicapped child of identical age in the public schools. Special arrangements for multiple handicapped children for whom special appropriations are provided because of the severity of their handicaps may be made with the department. District and state educational agencies are required to cooperate with other agencies in the state, both public and private, interested in working toward the education, training, and alleviation of the handicaps of handicapped children. All such agencies are authorized to accept gifts or donations from private agencies. **(L)**

The Mental Health Commission is empowered to cooperate with the State Board of Education by furnishing to the Board records of the mentally handicapped children in each county. Under Act No. 589 of the 1954 Acts, requires the county superintendents to make surveys of the number of mentally and physically handicapped children in each county and report to the State Board of Education. **(Op. Att'y. Gen., February 9, 1955)**

The final paragraph of the July 17, 1973 Attorney General's opinion (seeRight to Education, above) was expanded in the following opinion. The Attorney General was asked to clarify as to what a school district could do if it had too few handicapped students to be required to establish programs under the mandatory bill cited above. It was the opinion of the At torney General "that a local school district can contract with another school district if the special program for its handicapped school children is to be provided within South Carolina; if the special education program is to be provided outside South Carolina, a local school district may contract with a school system or with an approved institution, public or private." **(Op. Att'y. Gen., October 23, 1973)**

FINANCE

The General Assembly will appropriate funds with initial funding for planning and organizing to begin with fiscal year 1972-73. Costs of all programs for handicapped children shall be shared with the school districts on the same basis that education costs are currently provided for such children attending the public schools. These provisions are supplementary to all existing programs for the education of handicapped children. **(Sec. 7, Act 977, 1972) (L)**

Districts will be reimbursed in the following manner for the provision of special education services. State aid will be allowed for one speech clinician for each 75 speech handicapped children (these children may also be counted for state aid in a regular class) or one clinician per 1500 students in areas where severe speech problems require more intensive therapy; special education aid for the hearing handicapped is granted for each teacher with a minimum ADA of six in a self-contained class or 12 enrolled in a regular class; programs for children with learning disabilities are reimbursed for each teacher with a minimum ADA of 10 in a self-contained class or each teacher serving a minimum ADA of 26 enrolled in a regular class; if a teacher serves more than one type of handicapped child, aid is granted on the basis of the handicapping condition affecting the majority of pupils served by that specialist; if a teacher has less than the required ADA in enrollment, a proportionate part of the salary will be allowed; if there are handicapped children unable to assemble in school, even with the help of transportation, instruction may be provided for them in their homes or in hospitals or in sanitoria. Children so instructed are counted under the provision of this article. If a child is permanently disabled, $600 per year will be allowed for classroom-to-home video or audio service. The state board is responsible for determining the number of hours acceptable in home instruction. **(Sec. 21-295.3 S.C. Stats.) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

See Planning.

SERVICES

" 'Special education services' shall mean, but not be limited to, special classes, special housing, homebound instruction, special rental facilities, braillists and typists for visually handicapped children, transportation, maintenance, instructional materials, therapy, professional consultant services, psychological services, itinerant services and resource services." **(Sec. 3, Act 977, part (C)) (L)**

Because it is state policy to provide whenever feasible the resources, assistance, coordination, and support necessary to enable the handicapped to receive an education within the confines of his home and community, individuals previously placed in residential treatment centers should be considered whenever possible as recipients of these services and programs which will offer new resources for their care and training at home. The governing agencies of the residential programs are encouraged to investigate available resources and, if appropriate, work closely with the family guardian and other responsible agents to effect meaningful return of institutionalized persons to the more normal environment of home and community. However, responsible persons in agencies administering residential programs are directed not to view this act as cause for the indiscriminate return home of current institutionalized residents. **(Sec. 7A, Act 977, 1972) (L)**

Prior to the return home of any persons from a residential center, advanced written consent of the parent, guardian, or other responsible party must be given. If the parent, guardian, or other responsible party opposes the recommendation of the agency administering the residential program to return the individual home, the agency, based upon professional judgment, may place the individual in another nonresidential program such as a foster home, community residence, half-way residence or other similar service designed to promote the growth and development of the handicapped individual. **(Sec. 7A, Act 977, 1972) (L)**

" 'Special education program' means education and services carried on through special schools, special classes, and special instruction." **(Sec. 21-295 S.C. Code) (L)**

Handicapped children, unable to attend school even with transportation, may be provided instruction in their homes, hospitals, or sanitoria. For permanently disabled children, the cost of classroom-to-home video or audio services is allowed. The number of hours of home instruction acceptable for reimbursement is determined by the state board of education. **(Sec. 21-295.3(11) S.C. Code) (L)**

Special education teachers must have a valid certificate issued by the state department of education and any special qualifications the state board may require or a comparable certificate in special education. **(Sec. 21-295.4 S.C. Code) (L)**

The State Public Library Association may provide library services to students in residential schools for the handicapped including the mentally retarded, hard of hearing, deaf, or other health impaired persons, who by reason thereof, require special education. **(Sec. 42-203 S.C. Code) (L)**

Class Size

	NUMBER OF PUPILS	
	Minimum	Maximum
EDUCABLE MENTALLY HANDICAPPED		
EDUCABLE MENTALLY HANDICAPPED		
Special Class	10	--
TRAINABLE MENTALLY HANDICAPPED		
Special Class	8[1]	--
PHYSICALLY HANDICAPPED		
Special Class (Orthopedically Handicapped)	8	--
LEARNING DISABLED		
Special Class	10	--
BLIND		
Special Class	5	--
Resource Specialist - Regular Class Placement	12	--
HEARING HANDICAPPED	6	--
LEARNING DISABLED	10	--
SPEECH HANDICAPPED		
Speech Therapist (caseload)	No minimum caseload requirement. Recommend 40 to 60 (approximate average caseload '72-73 school year: 75).	

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[1] Average daily attendance minimum

Six hundred dollars is allowed for video and audio services to homebound children under subsection 10 of Section 21-295.3 of the North Carolina Code as amended in 1970. This money shall "originate with the appropriation made for teachers' salaries." **(Op. Att'y. Gen., August 7, 1970)**

The Attorney General was asked to determine the responsibility a school district has for the transportation of handicapped children under the 1972 mandatory special education bill. **(see Right to Education)** According to the Attorney General, it is clearly the responsibility of the local school system to provide the transportation. (It should be noted that school systems receive special reimbursement for such transportation.) If modifications need to be made in the school buses to provide the transportation, this also is the responsibility of the local school system. **(Op. Att'y. Gen., October 12, 1973)**

The General Assembly makes an annual appropriation for the transportation of hearing handicapped, orthopedically handicapped, trainable mentally handicapped, and visually handicapped children. The local school district must provide for transportation and reimbursement is made from the state appropriation.

When a district contracts with another district or an institution for special education services and pays it for transportation, it will be reimbursed by the state department of education for this and other costs up to the cost of educating a handicapped child in a public school.

Each school district operating a program for trainable mentally handicapped and/or physically handicapped children approved by the state department of education's office of programs for the handicapped may be reimbursed for the cost of transporting such pupils at the rate of $70 per pupil per year or the cost of such transportation, whichever is the lesser amount. If the request for funds exceeds the appropriation, a pro-rata share will be distributed.

The funds may be used only for transportation of eligible pupils.

To qualify, the pupil must be enrolled for at least 35 days in a class for hearing handicapped, orthopedically handicapped, trainable mentally handicapped, or visually handicapped pupils approved by the state department of education's office of programs for the handicapped.

At the beginning of the school year the district superintendent must submit to the state department of education's office of programs for the handicapped, a general plan of transportation and an estimate of the cost of such transportation for approval. At the end of the school year a detailed statement of expenditures and a request for reimbursement must be submitted to the office of programs for the handicapped. After approval of the reimbursement request the funds are forwarded to the county treasurer to the credit of the school district.

PRIVATE

Statutes contain no specific provisions for the handicapped in this area.

The Commission for the Blind has authority over the instruction of visually handicapped children in private schools. The State Department of Education has control in public schools. **(Op. Att'y. Gen., February 9, 1971)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary (Certificate No. 5)
valid grades 1-8 bachelor's degree, general education (45), professional education (21), elementary education (15)

Eligibility for Special Education (Certificate No. 7)
valid elementary teacher's certificate, growth and development and/or elementary methods and materials, special education (15)

FACILITIES

Classroom space should be of equal size to regular classrooms and located in a regular school building which houses children of similar chronological age.

The resource room should be of sufficient size to comfortably accommodate the resource teacher, at least six pupils and any necessary furniture, materials, and equipment. It should be located in the school building near the academic area of the pupils to be served. If a portable unit is used, it should be located as near as possible to the academic area of the pupils to be served.

A room should be provided that is sufficient in size to comfortably accommodate the itinerant teacher, the maximum number of pupils to be served at any given time, and any necessary furniture, materials, and equipment.

Within each school housing a speech therapy program, a room should be provided with adequate space to accommodate the maximum number of pupils to be served at any given time. This room should be free from interruptions and be used solely for speech while the speech clinician is in that building. Adequate materials and equipment should be provided.

Classroom space should be of sufficient size to comfortably accommodate the teacher, at least six pupils and any necessary furniture, materials, and equipment. The room should be located near the academic area of the pupils to be served.

The crisis room should be of sufficient size to comfortably accommodate the crisis teacher, at least six pupils and any necessary furniture, materials, and equipment. It should be located in the school building near the academic area of the pupils to be served.

Wherever necessary the physical facilities utilized in programs for handicapped pupils shall be specially adapted to the needs of the handicapped.

There shall be an adequate supply of appropriate teaching materials and equipment to the same extent that materials and equipment are made available to the student body at large.

Speech Therapy Room:
Location: Near lower elementary classroom and relatively quiet
Size: 150 square feet (approximately)
Conditions: Free from interruptions and excessive noise
Electrical Supply: Two 110 volt doubleplugs conveniently located
Chalkboard: One 3' x 5' at the appropriate height for children
Bulletin Board: One 4' x 4' mounted on the wall
Table: One round table approximately 48" in diameter
Chairs: Four chairs of appropriate age level for the children served
Additional Furniture for Central Offices: Storage Cabinets
File Cabinets
Bookcases
Desk or Work Table

STATE PROFILE

SOUTH DAKOTA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The stability of a republican form of government, depending upon the morality and intelligence of the people, it shall be the duty of the legislature to establish and maintain a general and uniform system of public schools wherein tuition shall be without charge, and equally open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education." **(Art. VIII, Sec. 1, S.D. Const.) (L)**

Compulsory Attendance Law: A child may be excused from school attendance if his physical or mental condition renders attendance at school unsafe, impracticable, or harmful either to the child or to others. The existence of the condition must be evidenced by the certificate of a reputable physician, dentist, or any other person who may lawfully treat sickness or disease under the state laws, or by a certificate of a psychologist employed by the state commission for the mentally retarded. **(SDCL 13-27-4) (L)**

Children may be excused from school attendance, if as declared by a reputable physician, they are mentally or physically defective and cannot receive proper instruction in the common schools. If this is so, suitable provision must be made for their instruction or training by private instructors or institutions adapted to such children. If a blind, deaf, or mentally retarded child is not given such instruction, it is the duty of the truancy officer to institute county court actions to commit the child to a state institution maintained for the particular type of disability unless the child is excused from attendance by the superintendent of the appropriate institution. **(SDCL 13-27-5) (L)**

The county auditor of schools also has the power to excuse a child from school, if the child as determined by a reputable physician, is mentally or physically defective and cannot receive proper instruction in the schools. Suitable provision shall then be made for the instruction or training of the child by a private instructor or an institution adapted to the instruction of such children. **(SDCL 15-3030) (L)**

Whenever it becomes known to a superintendent of a school district that any deaf or blind child, residing within the district and entitled to school admission, is being deprived of his education by the refusal or neglect of his parent, guardian, or custodian to provide the child with means of acquiring the education it is the duty of the superintendent to notify and require the person having control of the child to send him to the proper state school. If within 10 days after the notice the person continues to refuse or neglects this responsibility, the superintendent shall make a complaint to the county judge. The complaint shall note the age and place of residence of the child and shall state that he is being deprived of an education by refusal or neglect of his parent, guardian, or custodian. **(SDCL 13-27-25) (L)**

The judge is then required to order the person having charge of the child to make an appearance within the court, and he may summon and examine any witness as to the facts. **(SDCL 13-27-25) (L)**

If sufficient evidence established the fact that the persons having control of the child have been neglectful, the judge may order them to send the child to the appropriate school. If they still refuse, they are then in contempt. **(SDCL 13-27-26 to 13-27-28) (L)**

Responsibilities: "The superintendent with the advice of the division shall have the authority to assign children to a vendor for purposes of special education as provided in this act. Such assignments must indicate the beginning date for, and the nature of, the specific service to be provided. When a child has been so assigned, the school district wherein such child has school residence shall be responsible for the costs of such special education to the extent hereinafter provided." **(SDCL 13137-7) (L)**

Governing boards of school districts are responsible for providing an appropriate program for all of their exceptional children. Placement in a jointly operated program will fulfill this requirement. Placement of a child with the approval of the department into an appropriate program in cases where it is unreasonable for the district to provide the program shall also fulfill this requirement. **(SDCL 13-27-14.1) (L)**

Following the question regarding the obligation of a school district for exceptional children below school age (see Population: Age of Eligibility, Op. Att'y. Gen. (April 5, 1973)), it was asked whether this obligation would be mandatory or optional. The Attorney General stated "that based on the provisions of SDCL 13-27-14.1, it is mandatory that a school district provide an appropriate educational program for exceptional children." **(Op. Att'y. Gen., April 5, 1973)**

The local school system is responsible for the education of an exceptional child if the parents elect not to place their child in a state institution to which the child is eligible for placement. **(Op. Att'y. Gen., April 5, 1973)**

POPULATION

Definitions: " 'Exceptional children' means all children under the age of 21 years who are residents of the State of South Dakota and, because of their physical or mental condition, are not adequately provided for through the usual facilities and services of public schools." **(SDCL 13-37-1) (L)**

Age of Eligibility: Exceptional children are eligible for services from birth through age 21. **(L)**

The South Dakota statute which provides for special education for exceptional children (SDCL 13-17) includes those children considered to have learning disabilities. **(Op. Att'y. Gen. July 27, 1971)**

"The current statutes do not provide a minimum age for which a school district is obligated to provide an appropriate educational program for exceptional children." **(Op. Att'y. Gen., April 5, 1973)**

After the April 5, 1973, Attorney General's opinion, he was specifically asked whether school systems were obligated to provide services to exceptional children under the age of five years. The answer was yes. **(Op. Att'y. Gen., April 13, 1973)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: The school census shall show the date of birth, place of birth, age as of October 31, actual residence of the child on April 1, the names of the parent or guardian, and will show if the child has any impairment of hearing, sight, speech, or other physical handicap as well as will indicate if the child is qualified for special education instruction due to a mental handicap or emotional disturbance. The form shall be filed with the county auditor. Certified copies of all census data will be sent to the division of pupil personnel services. **(SDCL 13-22-4) (L)**

The presidents of school boards are required to send to the superintendent of the state school for the deaf the names of all deaf children (and to the state school for the blind the names of all school age blind children) whenever it is brought to their attention that such children are living within their district. State schools are responsible for taking any necessary action to provide deaf children and blind children with the advantages of proper education. **(SDCL 13-27-10) (L)**

The school census shall identify all children over age six with impaired hearing, sight, or any other physical handicap. This should be filed with the county superintendent of schools on or before the first Monday in May. A copy should also be retained in the office of the specific school district involved. **(SDCL 13-22-4) (L)**

Screening: County boards of health may require that the county nurse examine the eyes, ears, nose, throat, and teeth of all pupils enrolled in the county public schools. The county nurse will then confidentially report to the board of health any cases which, in her opinion, are cases of tuberculosis, infantile paralysis, diptheria, small pox, scarlet fever, measles, chicken pox, or any other contagious, communicable, or other disease disclosed in the examinations. **(SDCL 34-4-8) (L)**

Assessment and Placement: Before a child may enroll in a special education program, the nature of his handicap must be evidenced by a certificate of a qualified person or physician (as defined by the state board of education) and by information furnished to the division of pupil personnel services. After two years and every year thereafter, the division must determine whether an exceptional child is capable of profiting by further specialized instruction. Children will be eligible for services only as long as progress is determined to exist. **(SDCL 13-37-4 and 13-37-5) (L)**

Certification of speech impairment provided by a qualified speech clinician must be on file with the local school district. A report will be requested at the end of the school year by the division of pupil personnel services. **(R)**

For psychological evaluations requested and approved through the division of pupil personnel services, the fee will be $15 ($25). The state will pay $10 ($15), the school district will be charged $5 ($10). Referrals will be assigned to school psychologists or psychological examiners certified by the department of public instruction. Request form SEPS-1 is required. (Note: Figures in parentheses are proposed changes, approved by the state board of education, to become effective as soon as administrative procedures have been completed.)

For speech and hearing evaluations requested through the division and approved, the fee will be $15. The state will pay $10, the school district will be charged $5. Referral will be assigned by the division to individuals or agencies designated for this purpose. Request form SH-2 is required.

In addition to the above fees, mileage at state rates will be allowed for the individual doing the evaluation. This will be paid by the state. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The superintendent is authorized and directed to implement a special education program for the state under the supervision of the office for exceptional children and to prepare the rules and regulations for the consideration of the state board. **(SDCL 13-37-14) (L)**

- A five-member board of regents appointed by the governor is responsible for administration of the school for the deaf and the school for the blind. **(Art. XIV, Sec. 3, S.D. Const.) (L)**

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

Costs for administration of special education programs, individual auxiliary services, and state aid for special education are treated as separate programs and must be specifically delineated at the department's budget request. The superintendent, with the advice of the division, has the authority to assign children to vendors. (A vendor is defined as "a school district, individual or private, non-profit institution which furnishes facilities or services, or both, for the special education of exceptional children.") To obtain special education services after a child has been assigned, the school district of residence is responsible for the cost of special education, which will be determined as follows:

1. the cost of special education incurred by a school district will be determined by dividing the total salaries of special education personnel by 80 percent;
2. the cost of special education as determined in (1) will be paid to district from monies provided by the legislature. Since appropriations are variable, a ratio for reimbursement is determined by dividing the total state cost by the legislative appropriation;
3. costs of special education not covered by the appropriation are the responsibility of the resident school district. The district's share will be raised through the tax levy;
4. the superintendent is directed to establish rates for auxiliary services provided on an individual case basis. In the case of exceptional children assigned by the state, the cost of auxiliary services after deducting state aid will be paid from the special education fund of the district of residence;
5. tuition for exceptional children assigned by the division to attend a private school or institution will be at the legal rate of tuition ($5.06 per day) provided by state law for secondary schools regardless of the child's classification. The tuition will be paid from the special education fund in the child's district of residence;
6. the cost of maintenance, including both board and room, shall be provided by the district wherein the exceptional child has school residence and shall not exceed $3 per day per child, and shall be paid from that district's special education fund; **(SDCL 13-37-8) (L)**
7. costs for basic extra and necessary transportation will be determined and authorized by the district of residence. Extra necessary transportation costs for exceptional children includes transportation allowing children to attend school and participate in auxiliary services to which they have been assigned and will be the responsibility of the school district;
8. where appropriate transportation is not provided by the school district, any exceptional child, when legally assigned, shall be eligible for necessary transportation at 7¢ per mile, not to exceed $600 per fiscal year. The district wherein the exceptional child has school residence shall pay transportation expenses from the district's special education fund; **(SDCL 13-37-9) (L)** and

9. payments received by a school district for special education must be credited to the special education fund of the school district. **(SDCL 13-37-8) (L)**

The governing boards of all school districts, with the assistance of their own administrative personnel and the division, must by July 10 of each year estimate the number of resident exceptional children who are expected to participate in special education programs during the current school year. The anticipated cost of providing such services must then be estimated. The governing board of the school district must then include in the current district tax levy a special levy (in additional to all other levies) not exceeding two mills on the dollar. This levy will be applied to all the taxable property in the district. These revenues constitute a district's special education fund for the payment of the special education cost for all exceptional children residing within the district. All districts, even though not operating a special education program, must make the initial levy in order to insure the payment of claims due to the assignment of exceptional children.

Within one year after the close of the school year, all vendors entitled to reimbursement must file with the governing board of each district an itemized, verified claim for each student. Claims may be filed at the end of each semester. Each claim must be audited and approved, on the basis of legal assignments from the superintendent, prior to payment from the school district's special education fund to those who furnished facilities and services for the special education of exceptional children. **(SDCL 13-37-15) (L)**

A revolving fund for payments is established in the office of the state treasurer by the superintendent to facilitate payments to vendors providing services on a monthly basis. This revolving fund is established with funds transferred from monies appropriated by the legislature to take care of the state's share of the costs of the total special education program. The fund will be maintained through reimbursement from school districts for their obligations and from other involved agencies for their share of the cost. The amount to be transferred to the revolving fund will be based on the estimated number of cases served during the fiscal year. **(SDCL 13-37-2) (L)**

If a child under the care and custody of the public welfare department residing in an institution is assigned by the state superintendent to a special education facility or service, the state will be responsible for auxiliary services, maintenance charges, and transportation costs. The state will bear the same charges for children in foster homes who are assigned to private, nonprofit institutions for educational purposes. **(Chap. 138, 1971) (L)**

The County Commissioners, on the second Tuesday in September, adopt and approve a budget for the education of exceptional children. This provisional budget is submitted to the Commissioner of Revenue for any changes or corrections. Changes can also be made to the provisional budget by the County Commissioners until the budget is approved by the Commissioner of Revenue. **(Op. Att'y. Gen., Oct. 5, 1965)**

There is no statutory authority for the payment of transportation costs of children attending the State School for the Deaf. **(Op. Att'y. Gen., March 6, 1968)**

SDCL 13-37-8.7 fixes the tuition rate and does not authorize a school system to contract with private schools for a higher tuition rate. SDCL 13-37-16 does allow a school district to use general fund moneys for special education programs. **(Op. Att'y. Gen., June 11, 1973)**

The cost of transportation of a handicapped student to a state-owned institution is the responsibility of the local district. This opinion overrules the 1968 Attorney General's opinion on this issue.
(Op. Att'y. Gen., June 21, 1973)

SERVICES

" 'Special education' means classroom services and auxiliary services provided exceptional children pursuant to the provisions of this act and shall include school instruction conforming as nearly as possible to the established state course of study under duly qualified special education teachers or other necessary services, or both, to the extent that an exceptional child is capable of profiting from special education." **(SDCL 13-37-2) (L)**

" 'Classroom services' means instruction provided exceptional children by qualified teachers, instructional materials and equipment needed for special education purposes, and necessary classroom supervision assistance."

" 'Auxiliary services' means diagnosis, therapy, vocational counseling, vocational rehabilitation and training, homebound instruction, and such other necessary services other than classroom which might be approved by the state board of education." **(SDCL 13-3-1-3.1) (L)**

Exceptional children receiving care in state institutions are excluded from the benefits of the special education provisions. No special education funds may be spent for children in any state-owned institution within or without the state of South Dakota except for services not provided by the state. **(SDCL 13-37-6) (L)**

Payments of mileage are made to parents to transport children for ancillary services, such as speech therapy and to full-time special education programs. **(R)**

Costs for basic extra and necessary transportation will be determined and authorized by the district of residence. Extra necessary transportation costs for exceptional children includes transportation allowing children to attend school and participate in auxiliary services to which they have been assigned and will be the responsibility of the school district. **(R)**

Individual speech therapy services requested on Form SE-1 and approved by the department of public instruction, division of pupil personnel services will be paid at the rate of $5 per hour, up to $3.50 to be billed to the school district, balance to be paid by the department. Speech clinician performing the services must be state certified. Application form SE-1 is required. **(R)**

The Attorney General was asked to define "school instruction" as it is used in SDCL 13-37-2 and SDCL 13-37-5.1. " 'School instruction' as used in the above statutes means instruction that is comparable to the type of instruction that takes place in a regular school classroom for regular school students."

"Specialized instruction" as used in the above statutes "means the type of instruction that does not take place in a regular classroom, but is confined to instruction dealing specifically with exceptional children." **(Op. Att'y. Gen., April 5, 1973)**

No specific definition can be given to an "appropriate educational program" referred to in SDCL 13-37-14.1. The Superintendent of Public Instruction has the power to adopt rules and regulations and a definition could be developed with the approval of the State Board of Education. Until such a definition is developed, however, an "appropriate educational program" is for the local school boards to determine. **(Op. Att'y. Gen., June 11, 1973)**

PRIVATE

Private, nonprofit institutions providing services to exceptional children may recover, on a monthly basis, approved costs from the special education funds of the school districts. Vendors (who are individuals or private nonprofit institutions providing services to legally assigned exceptional children on an individual or out-patient basis) will be paid monthly from the state revolving fund. See Finance. The fund will be reimbursed monthly from school district special education funds upon presentation of vouchers to the superintendent of schools for its share of such expenditures. **(SDCL 13-37-16.1) (L)**

School districts are authorized to enter into contracts with non-profit private schools or institutions to provide special education services for children with learning disabilities. The schools or educational services must be approved by the state board for assignment of these children, on an individual basis, by the department of public instruction. The instructors of these schools must also meet the certification requirements of the state board. **(SDCL 13-15-1.2) (L)**

Children without physical handicaps must be examined by a qualified psychological examiner. Physically handicapped children must be evaluated by a physician and must have a statement by the examining physician certifying the disability. School boards conduct initial evaluations, except in the case of emotionally disturbed children being considered for out-of-state placement. (These children are cooperatively evaluated and placed by the divisions of pupil personnel services and child welfare, and the commissioner on mental health and mental retardation.) **(R)**

If a child is eligible for special education, the parents should contact the facility where they wish to enroll the child. If the school accepts the child, the school provides forms for approval to the division of pupil personnel services. School districts are responsible for an amount not exceeding the legal daily high school tuition rate to the private school, which bills the district. The district also pays room and board, not exceeding $2 daily, if the child is boarded away from home. If the child is transported daily, the districts pay transportation costs. **(R)**

The division of pupil personnel services and the local district share the cost of psychological evaluations, the state paying $15 and the district $10 of the $25 fee. Within one year after the close of the school year, the private school must file its reimbursement claims. The state reimburses the school district for approximately 20% of costs, depending upon appropriated funds. **(R)**

Pupils may be placed in private facilities out-of-state only if no appropriate facilities are available within the state. Parents should contact the division of pupil personnel services directly if they are seeking out-of-state placement for their child. **(R)**

All schools must have state board approval. The state maintains a list of approved in-state facilities. Teachers must meet state board certification standards. The private school must notify the division of pupil personnel services if a child is dismissed from its program. **(R)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligbility for Elementary Certificate (Code 22)

valid grades K-9 bachelor's degree, completion of four-year curriculum including professional education (26), subject areas (27), general education (30)

Eligibility for Secondary Certificate (Code 23)

valid grades 7 - 12 bachelor's degree, completion of four-year curriculum with major in adac academic or special field, including professional education (18), student teaching (6), specialization (24)

Eligibility for Teacher of Exceptional Children (Code 35)

approval of the division of pupil personnel services

FACILITIES

Statutes contain no specific provisions for handicapped in this area.

STATE PROFILE

PENNSYLVANIA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
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PENNSYLVANIA

RIGHT TO AN EDUCATION

Constitution: "The general assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth." **(Art. 3, Sec. 14, Pa. Const.) (L)**

Compulsory Attendance Law: All children between the ages of eight and 17 are required to attend a day school teaching the subjects and activities described by state board standards in English. A parent, guardian, or other person having control of any child of compulsory school age who is deaf, hearing impaired, blind or visually impaired, or crippled and because of his handicap cannot be educated in the public schools of his district of residence shall allow the child to be sent to a school with proper provisions for the education of such handicapped children or shall provide for the child's education by a legally certified private tutor. **(Sec. 1327 and 1328, Pa. School Code) (L)**

The board of school directors of any district may, with evidence of any licensed practitioner of the healing arts or any other satisfactory evidence showing that any child has been prevented from attending school or from application of study because of any mental or physical handicaps, excuse the child from attending school. No action of the board of school directors is final until approval is given by the department of public instruction. **(Sec. 1329, Pa. School Code) (L)**

The provisions of this act do not apply to a child who has been examined by an approved mental clinic or by a person certificated as a public school psychologist or psychological examiner and has been found unable to profit further from public school attendance and who has been reported to the board of school directors and excused in accordance with the state board regulations. **(Sec. 1330, Pa. School Code) (L)**

Responsibilities: "Except as herein otherwise provided, it shall be the duty of the board of school directors of every school district to provide and maintain or to jointly provide and maintain with neighboring districts special classes or schools in accordance with the approved plan." **(See Planning.) (Sec. 1372, Pa. School Code) (L)**

If an approved plan demonstrates that it is unfeasible to form a special class in any district or to provide for a child in any of the public schools of the district, the board of school directors in the district will secure proper education and training outside the public schools, in a special institution, or provide for teaching the child in his home. **(Sec. 1372, Pa. School Code) (L)**

Mentally retarded children in residential mental retardation facilities licensed by the Department of Welfare and in residence as interim care placement must receive a public school program of education. **(Op. Att'y. Gen., August 6, 1973)**

1. Public policy of this Commonwealth is that any child living within the State is entitled to attend the public schools (24 P.S. 13-1306).
2. A child is resident of the district in which his or her parents or guardian resides. (24 P.S. 13-1302).
3. Non-resident children are entitled to attend the public schools, with or without tuition, as that board may determine.
4. School district of child's residence liable for tuition payment to district which educates the child. (24 P.S. 13-1307 and 13-1308).
5. Commonwealth pays tuition for Pennsylvania children whose district of residence cannot be determined.
6. Tuition for non-Pennsylvanians to be paid by the institution, who should seek re-payment from parents or guardian. (24 P.S. 13-1308)
7. Under PARC, parents who waive right to free public program of education must bear the tuition expense. **Op. Att'y. Gen. (October 11, 1973)**

In *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania*, the Pennsylvania A. R. C. and 14 mentally retarded children are the plaintiffs representing all others similarly situated. The defendants are the state secretaries of education and public welfare, the state board of education, and 13 school districts representing all of the state's districts. Suit questioned public policy in law which postponed or denied public education to mentally retarded children. Education is defined as a continuous process by which individuals learn to adjust to their environment; and by this definition, all children can learn. Free access to public education opportunities for mentally retarded children was sought. The case was filed in 1971 and in June of that year, a stipulation stated that due process procedures, notice and hearing must accompany any change in status of a mentally retarded child. In October, an injunction provided that no mentally retarded child could be denied an education. All named plaintiffs were to be placed in special programs by October, 1971, and all mentally retarded children in the state were to be placed in special programs by September, 1972. Also, any districts providing preschool education to children must also provide the same to the mentally retarded. The decrees were finalized by the court May 5, 1972, and two masters were appointed to oversee the orders. (lawsuit)

POPULATION

Definitions: "The term 'exceptional children' shall mean children of school age who deviate from the average in physical, mental, emotional, or social characteristics to such an extent that they require special education facilities or services and shall include all children in detention homes." **(Sec. 1371, Pa. School Code) (L)**

"Learning disabled pupils are those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, or mental retardation, or emotional disturbance, or of environmental disadvantage." **(R)**

"Speech handicapped refers to those children whose speech deviates from accepted standards in such a way as to call attention to the child, to interfere with communication, or to cause the possessor to be maladjusted." **(R)**

"Deaf children are children whose primary handicap is a severe to profound hearing loss requiring continuing special classroom instruction in language and communication appropriate to their needs." (50 db or greater hearing loss in speech range 500–2000).

Hard of hearing children are "children whose degree of hearing loss is mild, moderate or severe, i.e., they have useful residual hearing to assist them in their attempts to communicate. Their degree of impairment is such that they may function and progress satisfactorily in the regular classroom with supplemental services. This shall also include central language impairment, i.e., children who may or may not have a hearing loss and who have cerebral or other malfunctions which impair their ability to cope with and manipulate the symbols of expressive and/or receptive language." [Legally average hearing loss in speech range (500–2000 cps) of 30–60 db] **(R)**

Age of Eligibility: Children are eligible for special education if they are five years and seven months old prior to September 1. The board of school directors may admit beginners less than five years and seven months old. Boards of school directors may refuse to accept or retain children who have not yet maintained a mental age of five years. **(Sec. 1304, Pa. School Code) (L)** [The mental age provision was invalidated by *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania*, 334 F. Supp. 1257 (E. D. Pa. 1971), 343 F. Supp. 279 (E. D. Pa. 1972).]

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: Board of directors of local school districts where an adequate continuing school census is maintained must conduct a census of all children from birth to eighteen years of age who reside within their districts every third year between March 1st and September 1st.

In those districts where an adequate continuing school census is not being maintained, the boards of directors of local school districts must enumerate all persons who have not attained the age of eighteen. In this case, the enumeration must be conducted between March 1st and September 1st annually. **(R)**

Screening: Children of school age will have, according to the regulations of the advisory health board, a vision test by a school nurse, medical technician, or teacher, a hearing test by a school nurse or a medical technician; height and weight measurements by a school nurse or teacher; a test for tuberculosis under medical supervision, and any other tests the advisory health board feels are important to protection of the health of the child. The vision test must be given at least annually and the other tests at any intervals established by the advisory health board. **(Sec. 1402, Pa. School Code) (L)**

Assessment and Placement: District superintendents are responsible for reporting to the proper intermediate unit by October 15 of each year and thereafter as cases of exceptional children arise within their districts.

Any children so reported will be examined by a person certified by the department of public instruction as a public school psychologist and any other experts required by the child's handicaps and condition. Reports shall be made to the proper intermediate unit of all exceptional children and of district children enrolled in special classes. **(Sec. 1371, Pa. School Code) (L)**

The state board shall establish standards for a temporary or permanent exclusion from the public schools of children found to be both uneducable and untrainable. Any child determined to be uneducable and untrainable by a person certificated as a public school psychologist may be reported by the board of school directors to the superintendent of public instruction. If approved by him, the child will be certified to the department of public welfare as an uneducable and untrainable child. If the child is thus certified, the public schools are relieved of the obligations of providing education or training to the child. The department of public welfare may then arrange for the care, training, and supervision of the child in a manner "not inconsistent with the laws governing mentally defective individuals." **(Sec. 1375, Pa. School Code) (L)**

The county medical director of the department of health reports to the medical examiner of any school district the case of a deaf or hearing impaired child under six years of age who is not receiving adequate care and treatment which his parents or guardian is financially unable to provide. The examiner will provide for the care and treatment of the child at the expense of the school district or the state as the case may be. Care and treatment may be administered by the medical examiner or by some doctor of medicine chosen by him. **(Sec. 1378, Pa. School Code) (L)**

When notified by the department of health of a case of a deaf or hearing impaired child under six years of age, the superintendent of public instruction may, if it seems desirable, notify the parent or guardian of the location of any special schools and the nearest public school having special classes for the hard of hearing including information concerning the advantages offered to the child by the school or classes and the manner by which expenses will be provided. **(Sec. 1379, Pa. School Code) (L)**

Eligibility for admission to programs and services for the deaf or hearing impaired must be based upon information provided by a differential diagnosis of the primary disability area. This must include examinations by a qualified audiologist, otologist, psychologist, and the recommendations of the supervisor of speech and hearing and the special education director. The audiological assessment shall be done at a facility currently approved to provide such services to the department of health's hearing conservation program. **(R)**

Eligibility for admission to special education programs and services must also be based upon: (a) degree and type of impairment, (b) current and potential functional levels of speech, language, and audition; and (c) homogenity of age, intellectual ability, and ability to achieve. Approval of placement is conditional. Parents must be informed that all placements are on a temporary basis until diagnostic teaching data substantiates the appropriateness of the placement. The needs for continued enrollment must be based upon the results of biannual audiological and psychological assessment, and annual educational evaluations by appropriate personnel within the educational environment in which the child is enrolled. **(R)**

Periodic evaluations by appropriate professionals must provide the basis for withdrawals or transfers among the various types of programs and services. Withdrawals or transfers shall also be made after parental consent has been obtained. This will enable professional staff to explain programs and services on the basis of pupil needs and continuous progress. **(R)**

Eligibility for admission to classes for the aphasic must be based upon a severe language disability, judged to be an aphasic condition, as determined by

1. An audiologist or speech pathologist holding certification in the American Speech and Hearing Association; and
2. A psychologist, psychiatrist or neurologist who has had training and experience on the diagnosis of aphasia.

Each diagnosis must be evidenced by written statements from the specialist(s), and shall include recommendation for placement in classes for aphasic children. **(R)**

Eligibility for admission to programs for the learning disabled must be based on the evaluation of the following differential diagnosis by the special education director, special education supervisor, or certified school psychologist.

1. Individual psychological examination including a report that the child's intellectual potential is average or above, and that past and present evidence of performance and functioning supports such potential.
2. Educational assessment indicating the strengths and weaknesses in specific skill areas.
3. Professional examination including vision, hearing, and neurological screening, and when indicated, a psychiatric examination.

Pupil's eligibility to continue in the program must be determined by an annual assessment of his educational progress by the teacher and school psychologist and must include an evaluation of the child's ability to function in another class setting. Physician and/or psychiatric consultation shall be a part of an individual pupil's assessment when the child's physical and/or emotional condition warrants re-examination. A complete re-evaluation, including an individual psychological examination, shall be done every three years, and all placements with extenuating circumstances shall be submitted to the bureau of special education for preapproval.

A child may be withdrawn at any time during the programs when he develops the basic skills and controls which will enable him to progress successfully in a regular program. A child may be withdrawn as the result of a reevaluation which may determine the advisability of placing the child in another special education program or which may recommend placement in a vocational program. **(R)**

1. On June 18, 1971, the United States District Court for the Eastern District of Pennsylvania entered an order requiring notice to the parents or guardian and an opportunity to be heard prior to any change in the educational assignment of any child believed to be retarded.

2. Postponement of admission to regular school or class may have a significant effect on a child's education and training and should be deemed a significant change in educational assignment requiring the safeguard of notice and opportunity for hearing.

3. As an additional safeguard, the alternative educational assignment of a postponed child should automatically be reevaluated every two years.

4. "Children of School Age" as used in Section 1371 of the Public School Code concerning "exceptional children" means children age 6 to 21, and also means all mentally retarded children who have reached an age less than 6 at which preschool programs are available to others.

5. All mentally retarded children are presumed to be brain-damaged as used in Section 1376 of the Public School Code despite the presence of other exceptionalities.

6. When it is found on the recommendation of a public school psychologist and upon the approval of the local board of school directors and the Secretary of Education that a mentally retarded child would benefit more from placement in a program of education and training administered by the Department of Public Welfare than from any program of education and training administered by the Department of Education, the child should be certified to the Department of Public Welfare for timely placement in a program of education and training.

7. It is the responsibility of the Secretary of Education to be sure that every mentally retarded child is placed in a program of education and training appropriate to the child's individual capacities.

8. Homebound instruction should not be denied to a mentally retarded child merely because no physical disability accompanies the retardation or because retardation is not considered to be a short-term disability.

9. Homebound instruction is the least preferable of the programs of education and training administered by the Department of Education and a mentally retarded child shall not be assigned to it unless it is the program most appropriate to the child's capacity. An assignment to homebound instruction should be reevaluated not less than every three months.

10. A mentally retarded may be suspended for disciplinary reasons pursuant to Section 1318 of the School Code provided that the School District or Intermediate Unit obtains prior approval of the Director of the Bureau of Special Education and that a prompt hearing be held regarding this interim change in educational

1. Department of Public Welfare must cooperate in determining the appropriate placement of a child who can no longer benefit from a public school program.

2. Department of Public Welfare must place a mentally retarded child in accordance with a hearing officer's recommendations.

3. In deciding on the placement, the Department must consider child and family convenience, nature and size of the facility and the availability of space.

4. Department must, when no other placement is available, place the child into an appropriate facility. (Op. Att'y. Gen., October 30, 1973)

ADMINISTRATIVE RESPONSIBILITY

The organization of special classes and any other arrangements for special education are under the direction of the superintendent of public instruction. (Sec. 1372, Pa. School Code) (L)

The state board of education is responsible for adopting and prescribing standards and regulations for educating and training exceptional children either singly or jointly by school districts or intermediate units. The department of public instruction is responsible for determining what intermediate units will be joined to provide education and training for exceptional children. Standards and regulations will recognize factors such as numbers of exceptional children, types of handicaps, facilities, transportation, adequacy of existing provisions for exceptional children, and availability of school plant facilities. (Sec. 1372, Pa. School Code) (L)

The department of public instruction has jurisdiction over organizing and supervising schools and classes according to the rules and regulations of the conduct of schools and classes of the public school systems in any institutions wholly or partly supported by the state and not supervised by public school authorities. School and classes in institutions completely supported by the state will be financed by the department having jurisdiction and control of the institution. Teachers of a school or of a class organized and supervised by the department of public instruction in an institution wholly or partly state supported, teachers in the Pennsylvania State Oral School for the Deaf, teachers in the Thaddeus Stevens Trade School, and teachers in the Scotland School for Children enjoy the same privileges, including tenure rights, and are subject to the same laws as teachers in the public schools. (Sec. 1926, Pa. School Code) (L)

PLANNING

In 1970 intermediate units, either cooperatively with others or with school districts, were to have prepared and submitted to the superintendent of public instruction for his approval or disapproval, plans for the proper education and training of all exceptional children. These plans are subject to revision, when conditions warrant, with the approval of the superintendent of public instruction. (L)

FINANCE

Districts maintaining special classes in the public schools or special public schools or providing special education services in any other manner shall receive state reimbursement as long as the class, schools, or special education services are approved by the department of public instruction regarding the location, constitution, and size of classes; conditions of admission and discharge of pupils, equipment, courses of study, method of instruction, and qualification of teachers. By November 1 of each year, the secretary of the board of school directors in each district providing special education must make any reports required by the department of public instruction regarding special education programs for the current school year. (Sec. 1373, Pa. School Code) (L)

"Beginning with the school term of 1954–55 and for every school term thereafter, every school district, regardless of classification, shall be paid by the Commonwealth an amount determined by multiplying the average daily membership (ADM) and costs for exceptional children, (1) at the elementary level by an amount determined by subtracting the 'instruction cost per elementary pupil,' as defined in Sec. 2561 of this act, from the instruction cost per special class pupil,' as hereinafter defined for the preceding school term or from the 'instruction cost per special class elementary pupil as approved for reimbursement by the department of public instruction and the budget for classes or schools for exceptional children for the school year in which the classes operated, whichever is the lesser, (2) at the secondary level by the amount determined by subtracting the 'instruction cost per high school pupil,' as defined in Sec. 2561 of this act, from the 'instruction cost per special class pupil,' as hereinafter defined, for the preceding school term, or from the 'instruction costs per special class secondary pupil' as approved for reimbursement by the department of public instruction and the budget for classes or schools for exceptional children for the school year in which the classes operated, whichever is the lesser.

To find the 'instruction cost per special class pupil' add (1) salaries of directors and supervisors of special education, public school psychologists, counselors, principals of special schools and assistants, teachers of special classes for exceptional children, clerks and assistants employed in the district's program for special education, (2) district's contribution to the retirement fund of the directors and supervisors of special education, public school psychologists, principals of special schools and assistants, teachers of special classes for exceptional children, clerks and assistants employed in the district's program for special education, (3) the cost of textbooks and supplies of the second class used in the district's special education classes, or schools, (4) the cost of a telephonic system which enables handicapped children to remain in their homes and still participate in classroom activities. Divide the (1), (2), (3) and (4) or that part thereof which is approved by the department of public instruction for reimbursement by the total number of pupils, including those pupils who have available for use telephonic system equipment whereby they may remain at home and still participate in classroom activities, and ADM in the district's approved special classes for exceptional children. The quotient thus obtained shall be the 'instruction cost per special class pupil.'"

The ADM of speech correction classes is calculated by multiplying the average number of pupils in speech correction classes per week by the number of periods per week speech correction is provided for individual pupils by the number of minutes per period in the speech correction class. The product is divided by the total number of minutes spent in all classes weekly by the average pupil. [illegible]

All districts providing education for homebound children receive from the state an amount determined by multiplying the mandated minimum hourly rate for instructing homebound children by the district aid ratio. (Sec. 2501.1, Pa. School Code) (L)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

All school districts in the state are assigned to an intermediate unit and are entitled to receive services provided by these units. (L)

Two or more intermediate units may, with the approval of a majority of each intermediate unit board of directors and all school districts within each intermediate unit, submit to the state board of education a request for consolidation. If it is approved by the state board, it becomes effective the following July 1. (L)

Intermediate units annually submit a program of services for the next school year to the superintendent of public instruction for budgetary approval. (L)

All powers and duties formerly held by county boards of education regarding special pupil services are now vested in intermediate unit boards of directors. (L)

Intermediate units are limited to providing curriculum development and instructional improvement services, educational planning services, instructional material services, continuing professional education services, pupil personnel services, state and federal agency liaison services, and management services. Any additional services must be approved by the majority of all boards of school directors comprising the intermediate unit. Intermediate units may provide any of the services mentioned in this section to non-public, non-profit schools which are authorized to contract for and purchase services from intermediate units. (L)

Intermediate units shall provide, maintain, administer, supervise, and operate any additional classes or schools necessary or otherwise provide for the proper education and training of all exceptional children not enrolled in classes or schools maintained and operated by school districts or for whom other provisions are not made. (L)

If the superintendent of public instruction feels that the provisions of the laws have not been complied with or the needs of exceptional children are not being adequately served, the department of public instruction is authorized to supervise and operate classes in schools for the education and training of exceptional children. Eligibility for enrollment is determined by standards of the state board. (L)

The ADM of pupils enrolled in classes or schools for exceptional children operated by an intermediate unit or by the department of public instruction are credited to the school district of residence for determining the district's teaching units in calculating the district's reimbursement fractions or weighted ADM used in calculating the district's aid ratio and determining payments to the district on account of instruction. (L)

If the state funds allocated to the unit are less than budgetary requirements, all school districts within the intermediate unit will contribute a share of the amount by which the budget exceeds the allocation. The school district contributions will be determined by:

1. Determining a weight factor for each school district by multiplying the school district's weighted ADM by the difference between 1.0000 and the school district's aid ratio;

2. Determining a value per weight factor for the intermediate unit by dividing the amount by which the budget exceeds the allocation by the total weight factor of all school districts comprising the unit, and

3. Determining each school district's share by multiplying the value per weight factor by the weight factor of the school district. (L)

By July 1 of each year, intermediate units must submit for prior review and approval estimates of the cost of operating and administering classes or schools for exceptional institutionalized children, including the cost of fiscal control such as auditing and necessary treasurers' and secretaries' bonds operated by the intermediate unit and transportation of children to and from classes and schools for exceptional children whether or not they are conducted by the intermediate unit. By August 1 the state will pay to the intermediate unit a sum equal to one-half of the approved estimated annual cost of operation and administration of classes for exceptional and institutionalized children and transportation and on or before January 1 they will pay an equal sum or lesser sum as may be shown to be necessary by an adjusted budget. At the end of each school year all unexpended funds will be credited to the state. All returned funds are specifically appropriated to the department of public instruction for the support of schools and classes and transportation for exceptional children. For children enrolled in any special class or school for exceptional children operated by an intermediate unit, the district in which the child is a resident will pay to the state the sum equal to the "tuition charge per elementary pupil" or the "tuition charge per high school pupil." In addition, districts will pay for transportation of children by the intermediate unit an amount determined by subtracting from the cost of transportation the per pupil reimbursement due the district for transportation. The superintendent of public instruction shall withhold any monies due the district out of state appropriations except for rental reimbursement. (L)

For all children enrolled in a special class or school operated by the department of public instruction, the school district of residence will pay the state a sum equal to the tuition charge per elementary pupil or the tuition charge per high school pupil as determined for the schools operated by the district or by a joint board of which the district is a member based upon the cost of the preceding school term plus a sum equal to 10 percent of the tuition charges. If a district has not established a tuition rate, the superintendent of public instruction will fix the rate. To facilitate payment, the superintendent of public instruction will withhold from any monies due the district out of the state appropriation the amounts owed by the school district to the state. All withheld amounts are specifically appropriated to the department of public instruction to maintain and administer centers and classes for exceptional children. (L)

SERVICES

The department of public instruction will prescribe regulations for the provision of homebound instruction which shall be provided to all children confined in detention homes regardless of whether or not they are exceptional. **(Sec. 1372, Pa. School Code) (L)**

Districts will be reimbursed for the cost of readers, helpers, aids, guides, appliances, special school books, supplies and devices for children between the ages of six and 21 who are blind, partially sighted, hard of hearing, or afflicted with cerebral palsy, enrolled with the approval of the department of public instruction in any of the public schools of the state in an amount equal to the cost of these services and equipment multiplied by the district's aid ratio. The total expenditure by the state may not exceed 75 percent of the sum which would have been expended for the tuition and maintenance of the child in a residential school for the blind, partially sighted, deaf, hard of hearing, or those afflicted with cerebral palsy. Services of the readers, helpers, and guides may be contracted and paid for by school districts regardless of the age of the person giving the assistance and the employment of the person by the district as a teacher or otherwise and of the time and place where the services are rendered. **(Sec. 1373.1, Pa. School Code) (L)**

Exceptional children enrolled in special classes approved by the department of public instruction or enrolled in a regular class with approved special education services may be furnished free transportation by the school district. If it is unfeasible to provide transportation, the board of school directors may, in lieu of transportation, pay for suitable board and lodging for a child. If transportation and board or lodging is not furnished for any exceptional child, who, because of this, is unable to attend a class or center for which he is qualified, the intermediate unit will then provide the necessary transportation. **(Sec. 1374, Pa. School Code) (L)**

The department of public instruction is responsible for educating blind children under the age of eight whenever the parents may be unable properly to educate them. The department of public instruction, with the written consent of the parents or nearest relative if there are no parents, or the local authorities of the proper institution if there are no parents or relatives, may contract with any nonsectarian institution established for the education of the blind where any child, at a cost not exceeding $3.00 per day paid by the state, may be educated until he reached the age of eight. This education may be continued beyond the age of eight if for physical, mental, or other proper reasons the child is in need of special care for a longer period. The contract may be canceled or the child removed at any time by the department of public instruction. **(Sec. 1380, Pa. School Code) (L)**

Up to $500 yearly may be provided to blind or deaf students enrolled in any university, college, conservatory of music, normal, professional, or vocational school approved by the department of public instruction. **(Sec. 1381, Pa. School Code) (L)**

District will pay for transportation of children by an intermediate school district in an amount determined by subtracting from the cost of transportation the per pupil reimbursement due the district for transportation. **(R)**

State reimburses 50% of transportation expenses. **(R)**

Class Size:

NUMBER OF PUPILS

	NUMBER OF PUPILS	
	Minimum	Maximum
TRAINABLE MENTALLY HANDICAPPED		
Special Class	7[1]	18[1]
EDUCABLE MENTALLY HANDICAPPED		
Special Class - Primary	10	18
Work Experience Special Class (½ day) - Secondary	15	18
Homeroom w/integrated placement - Secondary	15	20
Resource Teacher (caseload) - Secondary	15	30[2]
Special Class - Secondary	15	18
MULTIPLY HANDICAPPED	5	8
VISUALLY HANDICAPPED		
Special Class (Partially Seeing)	8	15
Special Class (Visually Impaired)	8	12
Itinerant Program (Visually Impaired) (caseload)	8	25
BLIND		
Special Class	5	10
GIFTED		
Resource Program (Elementary)	–	8
Resource Program (Secondary)	–	12
LEARNING DISABLED		
Special Class (Brain injured)	5	12[3]
Resource Program (Brain-injured)	6	–
Itinerant Program (Brain-injured)	4	–
AURALLY HANDICAPPED		
Itinerant Program (weekly caseload)	15	25
DEAF		
Special Class	–	8

[1] An aide may be employed if class size is greater than eight pupils and fewer than 15. An aide must be employed when class size is greater than 15 pupils.

Pursuant to rules and regulations established by the secretary, each intermediate unit shall provide auxiliary services to all children, grades kindergarten through twelve, in nonpublic schools within the area served by the intermediate unit. These services, which include guidance, counseling and testing services; psychological services; services for exceptional children; remedial and therapeutic services; speech and hearing services; services for the improvement of the educationally disadvantaged; and other services which are provided for public school children of the Commonwealth are to be provided to the children in their respective schools.

PRIVATE

If children between the ages of six and 21 who are blind or deaf or afflicted with cerebral palsy, and/or brain damage, and/or muscular dystrophy are enrolled with department of public instruction approval in any appropriate school or institution under the supervision of or subject to the review and approval of the department of public instruction, the district of residence of the child will pay 25 percent of the cost of tuition and maintenance in the school or institution. The state will pay out of special education funds 75 percent of the cost. If the residence of a child in a particular school district cannot be determined, the state will pay the total cost of tuition and maintenance. In no event shall the cost of tuition and maintenance of any child exceed $4,200 per year. (Sec. 1376, Pa. School Code) (L)

If a child less than six years of age or more than 21 is blind or deaf or afflicted with cerebral palsy and/or brain damage and/or muscular dystrophy is enrolled with department of public instruction approval as a pupil in any of the schools or institutions for such children approved by the department or under their supervision, the state will pay the school or institution the cost of tuition and maintenance for the child, subject to the approval by the standards and regulations of the council of basic education, up to $4,200 per year. For the parents of blind children under the age of six, the cost of instructing the parent in the caring of the child is also included. (Sec. 1376, Pa. School Code) (L)

The district's share of costs under these sections is withheld by the state superintendent for any state aid due to the district. The maximum amount payable for the cost of tuition and maintenance for all children is subject to review at least once every four years for the purpose of recommending any adjustments. To enable the department to determine from time to time the amounts due to the schools, the schools will forward to the department periodically statements setting forth the names, ages, and residences of all pupils enrolled specifying the school district liable for part of the per capita cost of and maintenance of the pupil and any other required information. (Sec. 1377, Pa. School Code) (L)

Services may be provided only if the school district or intermediate unit does not or cannot provide an appropriate program. (R)

Children must be examined by competent medical authorities and a report by a certified school psychologist attesting to the child's educability. Other school reports may be required. The bureau of special education must evaluate and approve all placements with extenuating circumstances. (R)

Placements may be approved for both in and out of state school as long as Pennsylvania standards are met. (R)

Pupils must be grouped according to their basic skill deficiencies and their social and emotional needs. The special education programs must be complemented with supportive services according to the needs of the handicapping condition. Physically handicapped and sensory impaired children shall receive appropriate services according to the specific standards for such impairments. Mentally impaired shall receive appropriate psychotherapeutic services. Class size and age range must conform to the specific special education standards for each exceptionality. (R)

Curriculum must be in accordance with state board regulations with adaptations to the needs, potentialities and degree of involvement of each pupil as described in the specific special education standards for each exceptionality. Each child shall have an educational assessment resulting in an individual prescriptive teaching program which shall be regularly reviewed, evaluated, and modified to provide for the child's educational growth and social and emotional development. (R)

The facilities must meet all state standards, regulations and laws as well as the private school requirements as specified by the bureau of private academic schools. Instructional materials, equipment, and supplies must be equivalent to those described in the special education standards for the exceptionality. Teacher, paraprofessional, ancillary and supportive staff must meet special education standards and state board regulations.

Private schools desiring approval must:

1. obtain private school licensure in a specific special education category;
2. submit the school's special education program proposal to the bureau as further delineated in the administrative guidelines;
3. upon program proposal approval, prepare for an on-site visitation by a bureau-selected evaluation team;
4. upon satisfactorily completing the above steps, program approval may be granted for the specified special education category; and
5. each school so licensed and approved shall be operated as a separate and distinct program in accordance with the differentials in payment for tuition or tuition and maintenance. (R)

Approved private schools shall be re-evaluated by a bureau chosen team of professional educators at least once every five years. Upon the request of two or more school districts, a re-evaluation may be made as deemed necessary. An on-site re-evaluation by the team along with the program description shall be the basis for a re-evaluation report. A re-evaluation report shall be filed with the bureau of special education, the bureau of private academic schools, and the private school. Status for the eligibility for a continuation as a state-aided approved private school shall be determined on the basis of this report as being:

1. continued approval;
2. continued approval with qualifications; and
3. disapproval.

If the status of the approval is qualified, the private school shall be re-evaluated in terms of the weak areas one year from the beginning of the probationary period. If the status is disapproved, the private school is ineligible for tuition or tuition and maintenance payments from that date forward. Re-evaluation of a private school which has disapproval status may be requested from the bureau one year after the disapproval date, provided substantial evidence has been presented to demonstrate that the causes for disapproval have been removed. Prior to an on-site re-evaluation, the private school must submit an up-to-date program description. **(R)**

The resident school district must receive an annual assessment of each child. The assessment is made by the private school's educational team and must include, when appropriate, a certified public school psychologists' recommendation as to whether the child is benefiting enough from the program to justify continued placement. The assessment must consider the feasibility of different placements.

The resident school district may withdraw a child when the local board considers, based on the continuance evaluation data, that the child has developed the basic skills and/or controls necessary to benefit from a regular school or special school program.

The resident school district is responsible for insuring that the child is provided an education appropriate to his or her mental or physical needs, within the public schools as soon as the child can function in the public school program. **(R)**

1. Mandates of PARC require that the Department of Welfare no longer secure education for interim care children from schools which do not adhere to the regulations for special education of the State Board of Education.
2. A private school approved by the Department of Education for the education of the mentally retarded provides a program which satisfies the requirements of the PARC case.

(Op. Att'y. Gen., August 6, 1973)

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Instructional Certificate, Specialized Areas (Certificate No. 6)

valid K-12 – bachelor's degree, completion of approved programs, instructional recommendation

Eligibility for Endorsement

extends Certificate No. 6 to include specialization – completion of approved program and instructional recommendation and approval of superintendent of public instruction

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

RHODE ISLAND

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

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*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The diffusion of knowledge, as well as of virtue among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the General Assembly to promote public schools and to adopt all means which they deem necessary and proper to secure to the people the advantages and opportunities of education." (Art. 12, Sec. 1, R.I. Const.) (L)

Compulsory Attendance Law: Children between the ages of seven and 16 must attend the public schools in the state unless the person [illegible] the child presents a certificate [illegible] under the direction of the school committee of the city or town where he resides, showing the child's physical or mental condition was such as to render his attendance at school inexpedient or impracticable. (Sec. 16-19-1 R.I. Acts) (L)

All parents or guardians of deaf children between the ages of seven and 18 must have the child attend the school for the deaf for the period of time each year prescribed by [illegible] deemed inexpedient. A penalty may be levied against anyone not fulfilling this provision. [illegible] of the board that the child has received or is receiving private or otherwise [illegible] suitable education, the penalty will not be incurred. No child will be removed from the parents or guardians to a school except [illegible] unless it is determined that the parent or guardian is not a proper person to have custody. (Sec. 16-26-8 R.I. Acts) (L)

Responsibilities: In any city or town in which there is a handicapped child as defined by regulations of the state board of education, the school committee of the district must provide the special educational services that will best meet the needs of the child as recommended and approved by the state board of education. (Sec. 16-24-1 R.I. Acts) (L)

Rhode Island Society for Autistic Children v. Board of Education of the State of Rhode Island is a class action suit with all of Rhode Island's exceptional children as plaintiffs. The Board of Regents for Education of the State of Rhode Island is the defendant. Plaintiffs allege that defendant failed to provide due process hearings in placement and exclusion procedures, thus violating equal protection and due process provisions of the Constitution and Rhode Island statutes. Plaintiffs seek a declaration of their right to an education, adequate notice and due process in placement procedures, and reimbursement to parents for previous expenditures when children were excluded. The suit, filed January 22, 1973, is still pending. (lawsuit)

POPULATION

Definitions: "Exceptional (handicapped) children" are defined as including children who are emotionally handicapped, mentally retarded, physically handicapped (health impaired, [illegible] homebound, neurologically [illegible]), speech, aphasic, and visually [illegible] handicapped." (R)

A deaf child is "a child whose hearing is non-functional for the ordinary purposes of speech and sound communication." [illegible]

A hard of hearing child is "a child whose sense of hearing, although impaired, has residual hearing which can be used for communication with the provision of a special education program and/or amplification." (R)

A speech-impaired child is "a child whose speech deviates from normal speech to the extent of interfering with adequate communication." (R)

An aphasic child is "a child whose language disorder [illegible] associated with brain lesion and is characterized by an inability to deal with language symbols (including reading, writing, speaking), and the comprehension of speech on a receptive or expressive level." (R)

Age of Eligibility: Exceptional children may receive services between the ages of three and 21. (Sec. 16-24-2 R.I. Acts) (L)

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: School committees of every city and town will ascertain, under regulations prescribed by the state board, in cooperation with the directors of health and social welfare, the number of children within their district of school age who are physically, emotionally, or mentally handicapped. (Sec. 16-24-3 R.I. Acts) (L)

Screening: All superintendents will have an examination of the sight and hearing of all children within their districts at least once a year by teachers or school physicians. The records of these examinations must be maintained and parents notified of any defects. The law also requires that examinations of the spine and pedal extremities be made by physicians or school nurses to determine whether they have [illegible] paralysis. (Sec. 182 R.I. Acts) (L)

An overall evaluation, including general medical, psychiatric, educational, and clinical psychological examinations is required.

The community school psychologist must analyze the evaluation, on the basis of the overall evaluation and this analysis, and after consultation with the parents or guardians, the community special education supervisor must specifically recommend placement.

Children in the program must be re-evaluated at least once every three years. **(R)**

A child shall be admitted to a special education program if he is deemed eligible on the basis of the evaluation by educational, psychological and medical personnel as prescribed hereinafter. **(R)**

A child shall be continued in a special education program as long as he remains eligible. No child, however, should remain in a class with the same teacher for a period to exceed three years. **(R)**

A child may be excluded, suspended, or withdrawn from education programs by the superintendent of schools for a short time for re-evaluation and classification. Decisions regarding exclusion for a longer period of time shall be made by the school committee upon recommendation of the superintendent of schools on the basis of the child's clinical and educational records. A child so excluded from any school program shall be given an evaluation to determine eligibility for retrial at the beginning of the following school year. A complete record of such exclusion including recommendation of the superintendent of schools shall be filed with the commissioner of education within 30 days of the action of the school committee. **(R)**

ADMINISTRATIVE RESPONSIBILITY

It is the responsibility of the state board of education to establish regulations including: (1) criteria to determine who is to be included in the category of exceptional children including all persons who are between the ages of three and 21 who are mentally retarded and/or multi-handicapped. The state board is required to consider all persons who are mentally retarded, not just the educable and trainable; (2) criteria for establishment and/or reimbursement of special facilities such as public school classes, hospital schools, etc., for each category of exceptionality; (3) methods of reimbursement; (4) teacher training recommendations and minimum teacher qualifications; (5) transportation; and (6) any other regulations that may be necessary to implement the special education program. **(Sec. 16–24–2 R.I. Acts) (L)**

The state board of education is responsible for supervision, administration, and control of the Rhode Island School for the Deaf. **(Sec. 16–26–2 R.I. Acts) (L)**

An advisory council appointed by the governor will advise the board of education concerning the school for the deaf but has no administrative powers or duties. **(Sec. 16–26–3 R.I. Acts) (L)**

The school committee of each community shall establish within its school system the special education program required by these regulations and/or it shall provide for the free education of all resident exceptional handicapped children either through these programs or in other special programs approved by the commissioner of education. (Whenever a responsibility is placed on a community by these regulations it shall be the responsibility of the school committee). **(R)**

Unusual situations not specifically provided for in these regulations will be evaluated by the commissioner of education who shall prescribe a program designed to meet the needs of each individual case. **(R)**

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

"The state shall reimburse each city and town in the manner prescribed by the regulations of the state board of education." **(Sec. 16–24–6 R.I. Acts) (L)**

In providing transportation, home teaching, and/or tuition for mentally retarded minors, cities or towns will be reimbursed by the state in an amount not exceeding one-half the cost if the programs have been approved by the state board. No costs incurred under this section will be considered in determining any other state aid to the city or town. **(Sec. 16–24–12 R.I. Acts) (L)**

One million dollars is appropriated annually for educational programs for the handicapped on the basis of the ratio of handicapped children in each district to the state total of such children. The department has the power to require that programs be administered and supervised by local districts in the manner that the department deems to be the most feasible, both educationally and economically. **(Ch. 160, Sec. 5, Public Laws of 1967) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Regional school districts may be formed to provide education for the handicapped as well as other types of service. Whenever possible, two or more districts or towns may organize to provide educational services for those children needing special care and instruction. **(L)**

A city or town with too few handicapped children of any one type to justify establishing a special class may contract with another city or town to provide education for such children. **(L)**

Communities may utilize preschool programs offered by other communities, the state, or other agencies whose preschool programs are approved by the commissioner of education. **(L)**

TRAINABLE MENTALLY HANDICAPPED		
Preschool Special Class	--	10[2]
Elementary Age Level Special Class	--	12[2]
Elementary Age Level Special Class	--	8[3]
Secondary (C.A. range less than 5 years)	--	12
Secondary (C.A. range greater than 5 years)	--	8
PHYSICALLY HANDICAPPED		
Special Class	--	10
EMOTIONALLY DISTURBED		
Special Class (Age spread less than 5 years)	--	10
Special Class (Age spread greater than 5 years)	--	8
VISUALLY HANDICAPPED		
Special Class	--	10
Resource Program	--	15
BLIND		
Preschool Special Class	8	10
Resource Program (caseload)	--	15

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[1] Each class shall have one full time teacher and a teacher's aide.

[2] With aide.

[3] No aide.

A community having 2,500 pupils enrolled in the public schools shall employ one full-time speech and hearing therapist for each 2,500 pupils so enrolled. A community having fewer than 2,500 pupils enrolled in the public schools which does not employ its own speech and hearing therapist shall join with another community (or other communities) in providing appropriate speech and hearing therapy.

A conference room for the use of speech and hearing personnel should be provided. The room should be located away from street traffic and other sound distractions, and should have proper lighting, ventilation and equipment.

No child shall be continued in the program of therapy for more than one year without re-evaluation of speech by the therapist in charge, or, in the case of hearing loss, without a hearing evaluation including examination by an otologist and re-examination of hearing acuity by an audiologist.

Termination of therapy shall be based on the evaluative judgment of the speech and hearing therapist.

Children in special classes for the handicapped and also exhibiting the characteristics descriptive of speech and hearing problems shall be eligible for individual or group therapy.

PRIVATE

Private schools may apply for approval of their program in the same manner as public schools. See Services. (Sec. 16-24-2 R.I. Acts) (L)

The educable mentally retarded, trainable mentally retarded, emotionally handicapped, deaf, hard of hearing, orthopedically handicapped, neurologically impaired, health impaired, aphasic, homebound children, blind and partially seeing are eligible for private school placements if no appropriate community program is established because of an insufficient number of children. (R)

Education commissioner recommends children who are blind, deaf, mentally retarded, or emotionally disturbed to the governor, who may appoint such children as state beneficiaries to attend schools designed to meet their particular needs if they are educable. (R)

State reimburses districts for up to 50% of the cost of transportation and tuition if the program has state board approval. (R)

Placements may be authorized in schools both in and out of state. (R)

Day programs are subject to state board regulations and supervision. (R)

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Elementary, Provisional (Certificate No. 13)

valid grades K-8: bachelor's degree, elementary education (30) including student teaching (6-12) or 2 years experience

Children" of Title 16 of the General Laws of Rhode Island 1956 (Reinactment 1969) was to provide and finance programs for gifted children However, the Legislature did not provide appropriation for this purpose for many years, and in 1971 it did not either, thus, there was no way the provision could be put into effect.

However, the Commissioner of Education may appoint members to a "Rhode Island Area Advisory Committee" to make regulations to carry out the purpose of the chapter. **(Op. Att'y. Gen., June 28, 1971)**

SERVICES

School committees of all cities and towns must provide for the transportation to and from school either within the school district or in another school district of the state for all handicapped children. **(Sec. 16-24-4 R.I. Acts) (L)**

The governor, upon the recommendation of the department of education and upon the application by the parent or guardian, may appoint "any deaf, blind, imbecile, or emotionally handicapped child, who is a fit subject for education as a state beneficiary at any suitable institution or school now established or which may be established within or without the state for a period not exceeding 10 years." He may extend the time limit upon the recommendation of the department of education and may revoke the appointment at any time for causes. **Sec. 16-25-1 R.I. Acts) (L)**

Preschool programs for deaf and hard of hearing children are established in the following cases: A community having six or more preschool deaf and/or hard of hearing children whose needs, as judged by the evaluative procedure, can be met in community preschool classes, shall establish preschool classes; or a community may utilize preschool programs operated by another community, the state, or by other agencies whose preschool programs are approved by the commissioner of education. **(R)**

School programs for deaf and hard of hearing children are established under the following cases: a community having eight deaf and/or hard of hearing children within either the elementary or secondary school levels of education whose needs, as judged by the evaluative procedure, can best be met by resource or special class programs, shall establish resource or special class programs at the appropriate level(s); a community having less than eight deaf and/or hard of hearing children which does not establish a resource or special class program, shall provide for the free education of such children in either a special public school program in another community or in a private or state residential school approved by the commissioner of education; a deaf or hard of hearing child whose needs, as judged by the evaluative procedure, can best be met by placement in a regular graded class shall be so placed, and he shall, in addition, be afforded appropriate itinerant teaching services. **(R)**

School committees of all cities and towns must provide for the transportation to and from school either within the school district or in another school district of the state for all handicapped children. **(R)**

All exceptional handicapped children must be provided free transportation to and from home to the special education program in which they are enrolled with the following exceptions:

1. Transportation to and from home to the hospitals or residential schools where the children will reside overnight.
2. Transportation to and from home to clinical facilities for the purposes of medical or psychological evaluation or therapy. **(R)**

Vehicles used for the transportation of exceptional handicapped children must comply with all safety regulations required for pupil transportation and must have seat belts which must be used to secure the children while the vehicle is in motion. **(R)**

In providing transportation, cities and towns will be reimbursed by the state in an amount not exceeding 50% of the cost if the program has been approved by the state board. **(R)**

Class Size:	**NUMBER OF PUPILS**	
	Minimum	**Maximum**
LEARNING DISABLED		
Special Class - Neurologically Impaired	--	10
AURALLY HANDICAPPED		
Preschool Special Class	--	10
School Age (Age spread less than 5 years)	--	10
School Age (Age spread greater than 5 years)	--	8
Resource Program (caseload)	--	15
DEAF		
Preschool Special Class	--	10
Special Class (C.A. spread less than 5 years)	--	10
Special Class (C.A. of 5 years or more)	--	8
Resource Program (caseload)	--	15
EDUCABLE MENTALLY HANDICAPPED		
Special Class[1]		
Preschool Program	--	10
Primary Group	--	10
Intermediate Group	--	14
Jr. High Group	--	16
Sr. High Group	--	16

Eligibility for Secondary, Provisional (Certificate No. 15)
valid grades 7-12: bachelor's degree, secondary education (18) including student teaching (6) or 2 years experience, specialization (varies)

Eligibility for Special Education (Certificate No. 21)
bachelor's degree, eligibility for Certificate 13 or 15, specialization (24), student teaching (6-12)

Eligibility for Special Education, Professional (Certificate No. 22)
master's degree or graduate study (36), 3 years experience under Certificate No. 21

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

TENNESSEE

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

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RIGHT TO AN EDUCATION

Constitution: "Knowledge, learning and virtue, being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the State, being highly conclusive to the promotion of this end, it shall be the duty of the General Assembly in all future periods of this government, to cherish literature and science." **(Art. XI, Sec. 12, Tenn. Const.) (L)**

Compulsory Attendance Law: Children between the ages of seven and 16 are required to attend the public schools during the school year. Children physically and mentally incapable of performing school duties may be exempted from attendance with the county, city, or special school district board of education as the sole judge. A licensed physician must certify the disability. **(Sec. 49-1710 TCA) (L)**

Compulsory school attendance is required of all blind children between the ages of seven and 16, but this section does not apply to blind children who are also mentally or physically defective and incapable of benefiting from school attendance. Compulsory attendance requirements do not apply to any child who has graduated from the elementary school of the Tennessee School for the Blind before reaching age 16. **(Sec. 49-1730 TCA) (L)**

Policy: "It is the policy of this state to provide, and to require school districts to provide, as part of free public education, special education services sufficient to meet the needs and maximize the capabilities of handicapped children. The timely implementation of this policy to the end that all handicapped children actually receive the special education services necessary to their proper development is declared to be an integral part of the policy of this state. This section applies to all handicapped children regardless of the schools, institutions, or programs by which such children are served." **(Sec. 1, Chap. 839, 1972) (L)**

Responsibilities: The state board and every local district should strive to provide appropriate educational services for handicapped children at the earliest possible date. However, special education services shall be provided for all handicapped children by the 1974 school year and all plans, both state and local, must be constructed to accomplish this. An incremental program approved by the state board and accomplished in no more than three phases must be prepared by local school boards within sixty days of the approval of this act. **(Sec. 5C, Chap. 839, 1972) (L)**

The state board of education shall provide or cause to be provided by school districts, all regular and special education, corrective and supporting services needed by handicapped children so that they receive the benefits of a free public education appropriate to their needs. The commissioner of education has the jurisdiction to organize and supervise schools and classes according to the regulations and standards established for the conduct of public schools and classes in all institutions wholly or partly supported by the state but not supervised by public school authorities. The department of education shall finance schools and classes in wholly owned state institutions. **(Sec. 2, Chap. 839, 1972) (L)**

Nothing in this special education law may be construed to limit any right which any child, his parent, or guardian has to enforce the provision of any regular or special educational service. Neither shall the time phases allowed school districts to submit plans or proceed with implementation of special education programs be taken as authorizing any delay in the provision of education or related services to which a child is entitled. **(Sec. 8A, Chap. 839, 1972) (L)**

To the maximum extent practicable, handicapped children shall be educated along with children who do not have handicaps and shall attend regular classes. Impediments to learning and to the normal functioning of handicapped children in the regular school environment shall be overcome by the provision of special aids and services rather than by separate schooling for the handicapped. Special classes, separate schooling or other removal of handicapped children from the regular educational environment, shall occur only when, and to the extent that the nature or severity of the handicap is such that education in regular classes, even with the use of supplementary aids and services cannot be accomplished satisfactorily. ([illegible])

In *Rainey v. Watkins*, nine handicapped children and two taxpayers are the plaintiffs. Defendants are the Memphis City Board of Education, its superintendent, and the director of special education. Plaintiffs allege defendants' failure to implement parts of Tennessee's Special Education Act of 1972, namely, a census of handicapped children and survey of services, personnel training, and establishment of special services. Plaintiffs request defendants' compliance with the Act. The case was filed April 5, 1973, and court ordered defendants to comply or show cause why they have not done so. Petitioners filed response on May 11, and on May 25 the court hearings on motions were denied and defendants were given 30 days to file report on status of compliance with the Act.

POPULATION

Definitions: " 'Handicapped child' means handicapped children and youth between the ages of four and 21 years inclusive who have been certified under regulations of the state board of education by a specialist as being unsuited for enrollment in regular classes of the public schools or who are unable to be educated or trained adequately in such regular programs without the provision of special classes, instruction, facilities or related services, or a combination thereof. This term includes the educable, trainable and profoundly retarded, the speech and/or language impaired; the deaf and hearing impaired, the blind and visually limited, the physically handicapped and/or other health impairments including homebound, hospitalized and pregnancy; the learning disabled including perceptually handicapped, emotionally conflicted, functionally retarded, and socially maladjusted; the multiple handicapped, and the intellectually gifted, and any other child whose needs and abilities cannot be served in a regular classroom setting." **(Sec. 3A, Chap. 839, 1972) (L)**

"Speech is defective when it deviates so far from the speech of other people that it calls attention to itself, interferes with communication, or causes its possessor to be maladjusted. Speech is defective when it is conspicuous, unintelligible, or unpleasant. More simply stated, speech is defective when we listen more to how something is said than to what is being said. Most speech disorders may be classified under one or more of the following terms: articulation, fluency, voice, or delayed speech and language development." **(R)** as about three-fourths of the problems in a school population are in this classification. These disorders vary in severity from complete unintelligibility to defective productions of only one or two sounds. Articulatory disorders may be one or more of the following types of deviations: substitution of one sound for another as 'wed' for 'red', omission of sounds as 'ittle' for 'little', distortion of sounds as whistling 's' or lateral emission of the air for 's'. **(R)**

"This broad term [fluency disorders] covers deviations in the rate or rhythm of the speaking voice. Stuttering, the most frequent problem in this category, usually combines the use of excessive effort in speaking with repetitious or hesitant speech utterance. Since some dysfluency is common for all speakers and since labeling a child's problem as stuttering sometimes leads to concern, embarrassment, and even greater dysfluency, the term stuttering should be avoided when talking to the child or his family."

"Other fluency disorders include rapid or uneven rate in speaking, and extremely slow and labored speech. The latter problem is frequently seen in individuals with neuromuscular disorders such as cerebral palsy." **(R)**

"Surveys have shown that approximately six percent of the school-age population has some deviation of voice. These disorders include deviations in pitch, quality, or intensity. Pitch is defective if it is either so high or so low that it is inappropriate to the age and sex of the speaker or if the voice is characterized by sudden changes in pitch level. Voice quality may be considered defective if it is excessively nasal, denasal, harsh or breathy. Defects of intensity are easily recognizable as voices are so soft that they do not carry or so loud that they irritate the listeners." **(R)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: The department of education must furnish to the department of public health a list obtained from the school census, of all physically handicapped or crippled children of school age or younger. For the listing of each child below school age, the sum of 10¢ will be allowed to the enumerator. It is the duty of the county boards of education and of the city boards and the cities maintaining separate school systems to enumerate all physically handicapped and crippled children of school age or younger residing within their jurisdiction and to furnish to the department of education a list of such persons. **(Sec. 53-1908 TCA) (L)**

See Planning also.

Screening: All school districts must test and examine each child attending the public and private schools within its boundaries to determine whether the child is handicapped. The tests and examinations must be administered on a regular basis according to state department rules and regulations. Schools as used in this section include kindergarten through grade 12. **(Sec. 6A, Chap. 839, 1972 (L)**

This testing requirement does not apply to children attending private schools who are not state residents. If the state or a school district has an agreement with another state or school district requiring these tests and examinations, the school district must administer them and report the results to the school district of the child's residence. **(Sec. 6B, Chap. 839, 1972) (L)**

All school districts are required to make and keep a current list of all handicapped children tested and examined, found to be handicapped and of all resident children receiving home, hospital, institutional, or other special education services not in regular programs. **(Sec. 6C, Chap. 839, 1972) (L)**

Assessment and Placement: To the maximum extent possible handicapped children must be educated with children without handicaps and attend regular classes. Impediments to learning and normal functioning of handicapped children in the regular school environment should be overcome by providing special aids and services rather than by separate schooling. Special classes, separate schooling, or any other removal of children from a regular educational environment should occur only when the extent of severity of the handicap is such that education in regular classes even with supplementary aids and services cannot be satisfactorily accomplished. **(Sec. 2B, Chap. 839, 1972) (L)**

A child or his parent or guardian may obtain a review of an action or omission by state or local authorities on the grounds that the child has been or is about to be:

1. denied entrance or continuance in a program of special education appropriate to his condition and needs;
2. placed in a special education program inappropriate to his condition and needs;
3. denied educational services because no suitable program exists;
4. provided special education or other education in sufficient quantity to satisfy legal requirements;
5. provided special education or other education by units of government or in situations without the primary responsibility for providing the services in question; or
6. assigned to a program of special education when he is not handicapped.

The parent or guardian of a child placed or denied placement in a special education program must be promptly notified by registered, certified mail with return receipt requested of the following:

1. the placement, denial, impending placement, or denial of the child;
2. a statement informing the parent or guardian that he has right to a review of the determination and the procedure for obtaining the review must be included; and
3. the information that a hearing may be held upon a written request no less than fifteen days nor more than thirty days from the day on which the notice was received must also be enclosed.

No change in the program assignment or status of a handicapped child may be made during the period granted the parent or guardian to request a hearing, i.e., not less than fourteen days, without the written consent of the parent or guardian. If the health or safety of the child or of other persons is endangered by the delaying of the change, the change may be made sooner but without prejudicing any rights of the child and his parent or guardian. The parent or guardian has access to any reports, records, clinical evaluation(s), or other materials on which the determination to be reviewed was based and which could reasonably have a bearing on the correctness of the determination. At the hearing the child, his parent, or guardian is entitled to examine witnesses, introduce evidence, appear in person, and be represented by counsel. A full record of the hearing must be made including a transcript if requested by the parent or guardian. If the parent or guardian believes a diagnosis or evaluation as shown in available records is in error, he may request an independent examination or evaluation of the child and has the right to secure it. The report is then presented in evidence at the hearing. If the parent or guardian cannot afford an independent examination or evaluation, it is provided at state expense. **(L)**

The state board shall periodically amend rules and regulations for conducting hearings. Among other things the rules and regulations must require that the hearing officer or board be composed of person(s) other than those who participated in the initial action and who were responsible for the determination in question, specify the qualifications of the hearing officer(s), and provide that the hearing officer or board has the authority to affirm, reverse, or modify the action previously taken and to order the taking of appropriate action. The rules and regulations shall also govern proceedings whether held by the state board or by a county, city, or special school district board of education. The determination of a hearing officer or board is subject to judicial review in the manner provided for judicial review of the determinations of a state or local agency. If a determination of a hearing officer or board is not fully complied with or implemented, the aggrieved party may enforce it by a proceeding in the chancery or circuit court. Any such action shall not prevent any administrative or judicial proceeding by or at the insistence of the state department to secure compliance or otherwise secure proper administration of laws and regulations relating to the provision of regular or special education. These remedies are in addition to any other remedies which a child, his parent, or guardian may have. **(Sec. 8A, Chap. 839, 1972) (L)**

Children physically and mentally incapable of performing school duties may be exempted from attendance with the county, city, or special school district board of education as the sole judge. A licensed physician must certify the disability.

Formation of a placement committee composed of people who have knowledge of the child and of available programs, and who can make placement recommendations to the superintendent is suggested.

The placement committee should make periodic evaluations of each child's progress and recommend changes in the educational program if indicated. **(L)**

ADMINISTRATIVE RESPONSIBILITY

A division for the education of the handicapped in the state department of education headed by an assistant commissioner qualified by education, training and experience to direct the state programs relating to the education of the handicapped is established. The division will assume the duties and responsibilities currently the function of the area in special education of the state department of education as well as those duties and responsibilities described in this act. The commissioner is responsible for appointing the assistant commissioner to head the division. The advisory council for the education of the handicapped (see Planning) may recommend qualified persons for this position. **(Sec. 4A, Chap. 839, 1972) (L)**

If the state department finds that a school district fails to provide necessary education to all eligible handicapped children, the state department may withhold all or a portion of the state aid for the regular public schools. This denial of aid may continue until the failure to provide special education is remedied. Whether or not the state department withholds such aid, it may provide the education services directly. Before withholding aid the state department must conduct a public hearing on due notice and on record establishing the failure of the school district to provide special education of both adequate quantity and quality.

Services provided directly by the state may include:

1. the hiring, employing and directing special education teachers and other necessary personnel;
2. incorporating of the personnel into the affected school system;
3. procuring and employing any necessary supplies, equipment, materials and facilities;
4. the furnishing of necessary administrative supervision and services to make the program effective;
5. direct supervision of state institutions or facilities of special education, but no child may be removed from the school district in which he is entitled to receive special education without the consent of his parent or guardian; and
6. any other matters incidental to the implementation of the program. **(Sec. 8C, Chap. 839, 1972) (L)**

Any costs incurred by the state department in providing direct services because of local district failure to provide services are assessed against the school district. If the school district resists paying within a specified period, the state department may make the payment and reimburse itself by appropriate judicial proceedings against the school district. During any time the state department is providing special education services directly, it must have as its purpose to assist the school district to assume or reassume its full responsibilities. However, no state aid shall be given to a school district during or for any period when the provision of special education on its account is being administered directly by the state. The state department of education shall return responsibility to the school district as soon as it finds it is willing and able to fulfill its legal responsibilities. **(Sec. 8D, Chap. 839, 1972) (L)**

The Tennessee School for the Blind and the Tennessee School for the Deaf are under the supervision of the state board of education. **(Sec. 4–310 TCA) (L)**

The superintendent shall take the initiative in the development of programs for hearing impaired children. His responsibility shall be to provide the same general facilities and equipment for these classes that he provides for his classes in the regular school program. Additional technical equipment and teaching materials should be provided to meet the requirements of the individual program. Excess cost funds within limits are available for the purchase of specialized equipment and materials. **(R)**

The state board of education has established criteria for determining eligibility of hearing impaired children for services and/or programs in the public schools. Other factors to be considered would be the child's social maturity, language and communication skills, current intellectual functioning, personality, cause of the hearing loss, and implications for educational prognosis. For example, the site of the auditory lesion can determine to a great extent the methods and activities chosen to carry out the educational objectives. **(R)**

In Tennessee, the superintendent is responsible for the administration of the total program for speech handicapped children and may designate the staff member to supervise the speech therapy program. He will confer with the regional supervisor of special education before submitting the appropriate forms for pre-approval of the program to the state department of education. The local school system is responsible for developing written policies concerning the program of speech therapy services. These policies should include an annual evaluation of the program, the needs for expansion, and provisions for inservice training. **(R)**

The coordinator is the person designated by the superintendent to assume administrative responsibility for the speech and hearing program. Although most public school programs may not have anyone in a supervisory position who is familiar with the speech and hearing therapy techniques, the coordinator of the program should assist the speech and hearing specialist in the development of a quality program. **(R)**

PLANNING

The commissioner, acting through the division for the education of the handicapped, is responsible for making and keeping current a plan to implement this act. The plan must include provisions for:

1. a census of all handicapped children showing both the total number of children and their geographic distribution;
2. diagnosis and screening of handicapped children;
3. an inventory of the personnel and facilities available to provide instruction and services for handicapped children;
4. an analysis of the present distribution of the responsibility for special education between state and local systems and general units of local government together with any recommendations for changes in the distribution and responsibility;
5. identification of the criteria for determining how handicapped children are to be educated;
6. standards for the education of all categories of handicapped children in regular schools or school districts and in state institutions including methods of assuring that the education afforded the handicapped will be nearly equivalent to that afforded to nonhandicapped children and will take into account the special needs of the handicapped;
7. a program for the preparation, recruitment, and inservice training of personnel in special education and allied fields, including appropriate participation by institutions of higher learning, state and local agencies, and any other public and private entities with relevant expertise;
8. programs to develop, acquire, construct, and maintain facilities;
9. a full description of the state plan providing special education to all handicapped children including each of the matters listed here and any other necessary or appropriate matters; and
10. any necessary additional matters including recommendations for amendments of laws, changes in administrative practices and patterns of organization, and changes in levels and patterns of financial support.

This plan was to have been presented to the governor and the General Assembly and made available for public distribution no later than October 2, 1972.

Any amendments or revisions after the first submission must be submitted to the governor, General Assembly, and public at least 90 days prior to the convening of the regular session of the assembly. All plans submitted after the initial submission must detail progress made in fulfilling the plan and in implementing the policy of the act. **(L)**

By July 1 annually each school district must report to the commissioner and the state board the extent to which it is providing special education for handicapped children. The report must detail the means by which the school district or political subdivision proposes to secure full compliance with state policy including:

1. statement of the extent to which the district is directly providing necessary education and services;
2. a precise statement of the extent to which standards for normalization are being enforced; and
3. an identification and description of the means the school district or political subdivision will employ to meet state standards for all special education not provided directly by the state. **(L)**

In addition to the annual report, the school district must submit any supplemental reports required by the commission and state department to keep the plan current. The state department will prescribe the due dates, the forms, and any other necessary matters relating to these reports. **(L)**

Handicapped children receiving special education in state facilities continue to be the planning responsibility of the school district of residence. The school district must keep records for each child including the nature and degree of his handicap and the way in which his educational needs are being met.

The first phase of the plan which began within sixty days of the approval of this act was a census of persons who if thereafter certified by a specialist would probably qualify as exceptional children. The census must show the name, age, sex, and type of exceptionality of each child. All the data descriptive of an individual person must be maintained in strict confidence. Individual data will not be made available to anyone except the survey takers in connection with those individuals reported by them, the appropriate superintendent and his staff, the appropriate school principal, and any other person designated in regulations adopted by the state board, and under the conditions adopted by the state board. The first phase also includes a survey of existing programs, services, and facilities together with a study of current national trends in providing services for exceptional children. The study includes not only appropriate instructional services, such as instructional resource and tutorial programs, but also physical facilities including portable classrooms necessary for exceptional children.

The second phase of the plan could begin as early as sixty days after approval of the plan by the state department and could operate in conjunction with the census and surveys. This is a program of training professional and paraprofessional personnel. It is to begin within six months after the approval of the act. This phase provides for the initial training and the retraining of selected professional and paraprofessional personnel (teacher aides), in accordance with the need for such personnel as revealed in the census taking into account the personnel already available. The training programs should not be limited to new teacher recruits but also include experienced special education teachers in a well planned sequential training program emphasizing a teacher as an educational diagnostician and a planner and utilizing teacher aides to assist in the implementation of the program. As much as possible training programs should be in-house, using qualified local school district staff as well as university personnel. "The teacher training program should demonstrate a philosophy in a school environment and atmosphere minimizing labeling and emphasizing the child as a part of rather than apart from.

The third phase of the implemental plan is the establishment of special educational classes and services to those handicapped children and youth residing within the school district and/or system. The local school system and/or district will make provisions enabling continuous progress so that a full program of special education services will be provided for all handicapped children and youth by the beginning of the 1974-75 school year.

Within sixty days of the effective date of this act all school boards must prepare and adopt an incremental plan for the implementation of appropriate instruction and special education services including a procedure for certifying exceptional children by specialists. The plan is then submitted to the state board. The plan is binding upon the local school board and must be adhered to unless subsequent modifications are approved by the state board.

If the state board disapproves a plan, representatives of the state board must consult with and advise the local board in an effort to formulate a plan which can be approved. If no plan is agreed upon, the state board within thirty days must provide a plan to be adhered to unless the school board within thirty days thereafter files suit in the circuit court of Davidson County in equity to restrain the enforcement of the plan on the ground that it is arbitrary, impracticable, detrimental to the education of exceptional children, or invalid. Only the specified court has the jurisdiction in these suits and all suits will be given a preferred setting. **(L)**

All state and local plans must take into account the advantages and disadvantages in providing special education to particular kinds of handicapped children through cooperative undertakings with other jurisdictions. The state or a school district may enter into agreements with other school districts or states to provide special education, but a child receiving special education outside the district of his residence continues to be the responsibility of the school district and does not relieve the school district of compliance with the requirements of this act. Agreements may include furnishing of educational and related services, payment of reasonable costs, making of capital contributions toward the construction and renovation of joint or common facilities regularly available by one party jurisdiction, and the furnishing of or responsibility for transportation, lodging, food, and related living costs. **(L)**

Any child and his family given educational or related services continues to have all civil and other rights he would have if receiving educational or related services within the subdivision of the school district where he would normally attend public school. No agreement made on this section is valid unless containing such a provision. **(L)**

FINANCE

An amount equal to the expenditure for nonhandicapped children must be expended for each handicapped child by local governments and school districts. Necessary funds for supplementary aids and services are the ultimate responsibility of the state but, to the maximum extent possible, shall be administered through local school districts. **(Sec. 2D, Chap. 839, 1972) (L)**

State aid is determined and paid in accordance with this section and the rules and regulations of the state board. Financial aid shall be paid to any public school district or any other entity entitled by the laws of the state to receive school aid for each of the following program elements:

1. the education of handicapped children in regular school programs;
2. the education of handicapped children in special classes, schools, and programs designed to meet their special needs and the furnishing of corrective or remedial services designed to eliminate or ameliorate physical, mental, emotional, or learning disabilities or handicaps, and
3. the furnishing of transportation. **(Sec. 11B, Chap. 839, 1972) (L)**

For state aid purposes, handicapped children will be counted in the same manner as other children. In addition to regular state aid, any school district or special services association maintaining an approved program of education for handicapped children is entitled to receive reimbursement from the state for the excess cost of individuals in the program above the cost of the pupils in the regular curriculum determined in the following manner:

1. All districts must keep an accurate, detailed, and separate account of all monies paid out for the maintenance of each of the types of classes and schools for the instruction and care of pupils attending them and for the cost of their transportation, and must annually report indicating the excess cost for elementary or high school pupils for the school year over the last ascertained average cost for the instruction of regular children in the elementary or secondary public schools.
2. Each special education services association must keep an accurate, detailed, and separate account of all monies paid out by it for the maintenance of each type of classes in schools for the instruction and care of pupils attending them and for the cost of their transportation and must annually report the excess cost for elementary or secondary public schools of the school districts served by the special education services association for a like period of attendance.
3. In addition to any state aid for the transporation of children to and from school or other transportation in connection with school related activities, the state department upon a properly substantiated claim shall pay 100% of the cost of special buses and other special equipment actually employed in transporting handicapped children. **(Sec. 11C, Chap. 839, 1972) (L)**

If any of the educational or other services under this section are provided partly by one school district or other entitled entity and partly by another such district or entity and if there is no valid contract or agreement by which one of the districts or entities is the proper claimant for all of the aid in question, each district and entity is entitled to claim and receive a proportionate share of state aid in accordance with its actual assumption of costs. The state department shall provide for the calculation and apportionment of state aid in such cases. **(Sec. 11D, Chap. 839, 1972) (L)**

State minimum foundation aid includes the following areas: administration and supervision, teacher salaries, travel for itinerant personnel, maintenance and operating costs, regular transportation, plus three special appropriations for textbooks, capital outlay, and leave for teachers. **(Ch. 43, Public Acts 1971) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

A school district may independently provide education, corrective and supporting services for handicapped children, or may fulfill its obligation to provide special education services by participation in a special education services association. School districts may perform all or part of their special education functions through participation in a special education services association. School districts must provide special education or related services not provided by the association on an individual basis or in any other approved manner. A services association must provide services for the entire area included within the school districts participating in it. The association may be established by resolution of each of the governing boards of the participating districts. Each representative has one vote. **(L)**

Special education services associations have the power to:

1. establish and operate programs and classes;
2. acquire, construct, maintain, and operate facilities to provide education and corrective and supporting services for handicapped children;
3. arrange with participating districts to provide necessary special education services;
4. employ special education teachers and other appropriate personnel;
5. acquire, hold, and convey real and personal property;
6. provide any required transportation;
7. participate and make its employees eligible to participate in any retirement or group insurance system or any other program of employee benefits on the same basis as other school districts and their employees; and
8. conduct any other activities necessary and incidental to carrying out the foregoing powers or any other powers conferred upon the association elsewhere in the laws of the state. Services associations may operate special education centers to provide diagnostic, therapeutic, corrective, or other services on a more comprehensive, expert, economic, and efficient basis than a single school district. These services may be provided in regular schools utilizing center equipment and personnel when necessary in its own facilities. **(L)**

These centers may also contain classrooms and/or other educational facilities and equipment to supplement instruction and other services for handicapped children in regular schools and may provide separate instruction to children whose degree or kind of handicap makes it impractical or inappropriate for them to participate in classes with normal children. These centers may include dormitories or related services and facilities for handicapped children unable to commute daily for education and related services. No facilities may be constructed unless the services association receives a permit from the division for education of the handicapped. The permit may contain any conditions the division feels necessary to assure conformity with state policy. Permits are issued only if the division is satisfied that all efforts have been made to accommodate the education and related services in a regular school building or on regular school premises and that separate facilities are necessary. **(L)**

Services associations must provide all education and corrective and supporting services for all handicapped children and residents except for those special education and corrective and supporting services provided directly by the state or by individual school districts as provided in the written agreement. A services association may make arrangements with private schools, institutions, and agencies for services to handicapped children if it is unable to provide appropriate services with its own facilities and personnel or the facilities and personnel of its member district. Home or hospital instruction and corrective and supporting services are provided only if the nature and severity of the handicap make such provision in the regular schools or in any other facility of the services association, the state, or a suitable private facility impractical. **(L)**

A services association in the process of formation must submit to the state board the interschool district agreement under which it proposes to function. This may be submitted either prior to or subsequent to the adoption of the agreement and resolution, but no special services association may receive state aid if the state board determines that:

1. the association complies with the special education provisions or if the association is not yet in operation, that it will have the resources and authority to comply; and
2. the geographic area served or to be served by the association is not so located or of such a configuration to exclude one or more of the school districts from effective participation in the services association or from forming a viable association of their own. **(L)**

Any district may apply for and receive the status of a special education services association by submitting to the state board an appropriate resolution of its governing board requesting this status. No association shall be approved by the state board unless it finds that the school district maintains a full complement of special education facilities and programs and complies with all provisions of this act. **(L)**

All services associations other than those composed of a single school district must function pursuant to an interschool district agreement. The agreement may be incorporated in the resolution or other action forming the association or may be a separate document. It must be adopted by either an affirmative vote of each governing board of the participating school districts or by affirmative vote of the electors in each district. The agreement must contain:

1. identification of the participating school districts;
2. an enumeration or precise delineation of the services to be provided;
3. provisions describing the internal management and control of the association;
4. provisions defining the relationship between participating school districts and the association in regard to responsibilities for the regular education of handicapped children and special education and corrective and supporting services for these children;
5. provisions denoting the financial responsibilities of all participating school districts or formulas, procedures, or other methods for the calculation of the district's financial responsibilities;
6. minimum duration of the agreement;
7. provisions for the disposition of association property if the agreement is dissolved;
8. financial settlement, if any, with a withdrawing school district; and
9. any other necessary or appropriate provisions. **(L)**

The agreement must be submitted to the state board and the attorney general prior to its becoming effective and must be approved by both units. If the state board and attorney general do not respond to a submitted agreement within 90 days approval is assumed. The state board is required to approve any agreement unless it finds that the provisions do not agree with the provisions and policy set forth in this act or if it finds that the agreement does not contain sufficient evidence that the services association will have the means of providing the facilities, personnel, and services to fulfill its obligations. The attorney general shall approve an agreement unless he finds it to be in improper form or if one or more of its provisions is contrary to law. **(L)**

School districts wishing to withdraw from the services association or from any part of the association must obtain the approval of the director of the division for the education of the handicapped. The director may grant approval only after conferring with the district and assessing that the withdrawal is in the interest of handicapped children in the association and school district. The withdrawal is effective only if the school board has the approval of the director to establish a comparable program. The withdrawal is not effective until the end of the next full school year. **(L)**

An association may be dissolved by its governing board but the dissolution cannot take place until the end of the school year in which action is taken. All assets and liabilities are distributed to all entities participating in the association. **(L)**

For state aid purposes, handicapped children will be counted in the same manner as other children. In addition to regular state aid, any school district or special services association maintaining an approved program of education for handicapped children is entitled to receive reimbursement from the state for the excess cost of individuals in the program above the cost of the pupils in the regular curriculum determined in the following manner: each special education services association must keep an accurate, detailed, and separate account of all monies paid out by it for the maintenance of each type of classes in schools for the instruction and care of pupils attending them and for the cost of their transportation and must annually report the excess cost for elementary or secondary public schools of the school districts served by the special education services association for a like period of attendance. **(L)**

If any of the educational or other services under this section are provided partly by one school district or other entitled entity and partly by another such district or entity and if there is no valid contract or agreement by which one of the districts or entities is the proper claimant for all of the aid in question, each district and entity is entitled to claim and receive a proportionate share of state aid in accordance with its actual assumption of costs. The state department shall provide for the calculation and apportionment of state aid in such cases. **(L)**

The state commissioner of education may distribute to a county, city, or special school district minimum school program "excess cost" funds not exceeding $5 per day or $1,000 per year for each multiply handicapped children. If there are no facilities within the state to provide for such children, and if the county, city, or special school district of residence supplements the state funds in an amount necessary to provide appropriate educational services and facilities, these children may be sent to out-of-state facilities. The maximum amount of $1,000 per year covers a 200-day school year. For any lesser number days reimbursement will be reduced proportionately. **(L)**

The state board of education is responsible for assisting two or more county, city, or special school district boards of education in establishing classes through a cooperative contract in districts having insufficient numbers of students to warrant the establishment of such class singly. Each special education services association must keep an accurate, detailed, and separate account of all monies paid out by it for the maintenance of each type of classes in schools for the instruction and care of pupils attending them and for the cost of their transportation and must annually report the excess cost for elementary or secondary public schools of the school districts served by the special education services association for a like period of attendance. **(L)**

A special education services association has the power to receive, administer and expend appropriated funds and proceeds of any school bond issue or other bonds intended wholly or partly for its benefit, and to apply for, accept and utilize grants, gifts, or any other assistance. **(L)**

An individual school district may qualify for state aid and a special education services association if it provides a full complement of education and corrective and supporting services exclusive of services provided directly by the state for all handicapped children within its boundaries. The state board of education is responsible for determining whether the applicable school district meets the requirements of a services association. **(L)**

A district withdrawing from a services association is liable for its proportionate share of operating costs until its withdrawal becomes effective and will continue to be liable for its share of debts incurred while it was a participant and receives no share in the assets. **(L)**

SERVICES

" 'Special education services' means classroom, home, hospital, instructional and administrative services needed to meet the needs of handicapped children; transportation of such handicapped children who are unable to use public transportation; corrective and supporting services including diagnostic and evaluation services, social services, physical and occupational therapy, job placement, orientation and mobility training, braillist, typists, and readers for the blind, specified materials and equipment and other such services as approved by the division of education for the handicapped and authorized by the state board of education; and other services that may be approved by the state board of education to assist handicapped children in taking advantage of or responding to educational programs and opportunities." **(Sec. 3B, Chap. 839, 1972) (L)**

In the division for the education of the handicapped a special education materials and training unit must be established to assist in the education of handicapped persons. The unit in addition to any other functions may

1. develop, test, demonstrate, maintain, purchase or otherwise acquire, store, and produce, if not reasonably obtainable from commercial sources, and make available equipment, materials, and special supplies and devices particularly useful in connection with the education of handicapped persons;
2. study, develop, and disseminate information concerning techniques for teaching handicapped persons;
3. collect, evaluate, and disseminate research data and any other information related to special equipment, materials, supplies, devices, techniques, and training;
4. provide instruction in the operation or use of equipment, materials, supplies, and devices;
5. provide inservice training for teachers of handicapped persons and other persons requiring special skills or understanding regarding the education of handicapped persons; and

The unit may also furnish, lend, or otherwise make available its equipment, materials, supplies, and devices to:

1. public school systems, private nonprofit schools, special schools and institutions for handicapped children, and public and private nonprofit institutions of higher learning.
2. public and private nonprofit institutions and organizations operating recognized programs of vocational rehabilitation,
3. preschool public and private nonprofit programs for education of handicapped children; and
4. handicapped persons on an individual basis if the unit has an established loan service.

The unit makes equipment and materials available only by written applications made in a prescribed form and manner. The application must be approved and materials furnished only if the unit is satisfied that the applicant has a need for them and is capable of putting them to an appropriate use. The application shall contain information concerning the number of handicapped children for whom the applicant is providing instruction or in the case of a new institution or program the number expected to be served, the type or types of handicaps, and any other required information. **(Sec. 6C, Chap. 839, 1972) (L)**

Unless otherwise noted, the unit will provide materials only to schools and school systems, institutions, organizations, and persons within Tennessee. Because of the specialized character and function of the unit, its support and utilization on a multistate or regional basis may promote efficiency and economy and may make it possible for more persons in need of special education to receive it. It is therefore state policy to encourage multistate and regional cooperation. The state department may contract with other states or appropriate educational agencies to furnish services, equipment, materials, supplies, or devices by the unit. The contracts may provide for the carrying out of any one or more of the unit's functions. Unless the activities covered by the contract are financed entirely by the other state or states including the maintenance of a separate staff or the pro rata contributions to the salaries and other compensations of staff, no school or school system, institution, organization, or person may be furnished with equipment, materials, supplies, devices, or training who would be ineligible recipients under Tennessee laws. Contracts must provide for: 1) their duration; 2) appropriate consideration and payment; 3) the nature and extent of the equipment, materials, supplies, devices, and training to be furnished and received; 4) the performance of inspections and examinations and the making of reports, the evaluation of these reports, and the granting or denial of benefits on the basis of these reports; and 5) any other necessary and appropriate matters. **(Sec. 6D, Chap. 839, 1972) (L)**

Payments provided by any contract with the state department must be sufficient to cover the costs of any equipment, materials, supplies, devices, and an equitable share of the operating costs in connection with any inservice training given to persons from other states. Contracts may be entered into only if the use made or to be made of the unit by another state is in excess of 10% of the use made by this state in schools and school systems, institutions, organizations, or persons in this state. Required payment from another state must include an equitable contribution for overhead and capital costs as well as operating costs, the cost of equipment, materials, supplies and devices. **(Sec. 6D, Chap. 839, 1972) (L)**

The commissioner or his representative may contract for supplies, equipment, materials, devices, and personnel training useful in teaching handicapped children. The commissioner may pay costs out of available funds. If another state, public agency, or private nonprofit agency establishes and maintains a substantial specialized program for the development, production, and procurement and distribution of special equipment, materials, devices and supplies, or for the training of personnel useful in the teaching of handicapped children, and if the contract or

contracts entered into by the commissioner assure the state of substantial profits on a continuing basis, consideration paid by the commissioner or his designated representative may be calculated to include overhead and capital costs as well as operational costs and the cost of any articles or services furnished or to be furnished. **(Sec. 6E, Chap. 839, 1972) (L)**

Any articles or services secured by the commissioner under a contract may be made available to any school system, special school, or other person and entity entitled to participate in or receive the benefits from special services for the handicapped. The ultimate apportionment and bearing of costs among the states, subdivisions, and other persons or entities must be in accordance with the law. **(Sec. 6F, Chap. 839, 1972) (L)**

The unit has the authority to inspect the facilities of any applicant to be a recipient of its services. They may inspect any pertinent records to determine facts relative to the administration of this act. The unit and its authorized representatives must have access to the premises and to any pertinent records of the applicant or recipient at all reasonable times. The unit may require reports from any recipient institution or program detailing uses made of equipment, materaials, supplies and devices and of the workability or beneficial effects obtained from them. The commissioner, with the approval of the governor, may provide for the consolidation of inspections, examinations of records, and reporting. **(Sec. 7G, Chap. 839, 1972) (L)**

Unless performed by the special education services association, each school district or state institution must establish and maintain a special education resources center to procure, maintain, service, and distribute special education equipment, supplies, and materials to all schools and eligible persons in the district. Special education resources centers may establish and operate or cooperate with others in establishing and operating programs of inservice training similar to those authorized for the state unit. These centers may cooperate and borrow or otherwise obtain from the state unit, regional instructional materials centers, federal and other governmental agencies and appropriate private agencies any equipment, supplies, and materials and distribute and collect these from schools. The division for the education of the handicapped is responsible for promoting the efficient and expert use of special education aids and for developing, revising, and keeping in force regulations and guidelines for the operation of centers and their relationship to schools or other recipients. The state unit shall assist the centers in their program of training, equipment servicing, distribution, and general administration. The state unit should also encourage special education services associations to maintain centers on behalf of their participating districts except in those instances where an individual school district is qualified as a special education services association. **(Sec. 7H, Chap. 839, 1972) (L)**

The department of education has the authority to cooperate with other school authorities in providing special schools and special classes in public elementary and high schools, private schools, hospitals and convalescent institutions, and home and bedside instruction, and transportation to and from school for physically handicapped, visually handicapped, or crippled children. **(Sec. 53-1909 TCA) (L)**

There are scholarship funds established for the deaf and the blind to enable them to attend institutions of higher education. The funds are under the administration of

In Tennessee, the speech and hearing program is designed to give a child one hour of instruction per week. This is considered minimum. **(R)**

In an effort to provide programs for hearing impaired children, school systems in Tennessee have established the following types of educational programs (a) day classes, (b) resource rooms, (c) itinerant teachers; and (d) preschool classes for hearing impaired. **(R)**

In 1951, the Tennessee Hearing and Speech Foundation was organized as a private, nonprofit corporation whose objectives were the promotion, encouragement, and provision of clinical services for all speech and hearing handicapped persons in the state. Speech and hearing centers have now been established in different regions of the state so that they will be easily accessible to people throughout the state. Inasmuch as the centers have equipment which would not be feasible for a public school system to maintain and can provide intensive therapy, it is advisable for the speech and hearing specialist to refer cases to a center when a complete diagnostic work-up is needed. Therapeutic services are also available, if desired. **(R)**

There is not a uniform policy regarding medical referral for a speech and/or hearing evaluation, but all centers require that a diagnostic appointment be made in advance. Contact may be made by phone or letter and specific procedures to be carried out in preparation for the appointment will be explained. **(R)**

Tennessee children who cannot be satisfactorily educated in the regular public schools because of a hearing deficiency are eligible to apply for admission to the Tennessee School for the Deaf in Knoxville. Plans are also underway to establish a branch of Tennessee School for the Deaf in West Tennessee. The program of this school is designed to give the deaf child the education he needs to enable him to obtain the status as an adult which will make him happy, independent, self-supporting, and a contributing member of society. **(R)**

Tuition, board, laundry, and ordinary medical attention are provided by the school. Medical care requiring specialists, surgery, X-rays, and special medication, as well as transportation to and from the school, clothing, and incidental expense money must be provided by parents, friends, or local organizations. **(R)**

Applicants to the school must legally reside in Tennessee and may apply as residential or day pupils. Parents of prospective pupils are urged to visit the school and to become familiar with the program offered and with the facilities and services available. **(R)**

Class Size:

	NUMBER OF PUPILS	
	Minimum	Maximum
SPEECH HANDICAPPED		
Speech and Hearing Therapist (average monthly caseload)	70[1]	--
PHYSICALLY HANDICAPPED		
Special Class (Multiple disabilities, cerebral palsied, brain-damaged, and/or physically handicapped)	8	--
Hospitalized Instruction (caseload)	10	--
LEARNING DISABLED (See PHYSICALLY HANDICAPPED)		
AURALLY HANDICAPPED		
Speech and Hearing Therapist (average monthly caseload)	70[1]	--
Special Class (severely hard of hearing and/or deaf)	8[2]	
DEAF		
Special Class (severely hard of hearing and/or deaf)	8	--
Preschool Deaf	--[3]	--
EDUCABLE MENTALLY HANDICAPPED		
Special class - Primary	12	14
Special class - Intermediate	12	16
Special Class - Jr. High	12	16
Special Class - Sr. High	12	16
Special Class - Sr. High (cooperative schools program)	14	16
TRAINABLE MENTALLY HANDICAPPED		
Special Class	8	16
MULTIPLY HANDICAPPED (See PHYSICALLY HANDICAPPED)		
VISUALLY HANDICAPPED		
Special Class (paritally seeing)	10	--
Itinerant Program (blind and/or partially seeing)	10	[illegible]
Special Class (blind, may also include partially seeing)	8	--
BLIND		
Special Class (may also include partially seeing)	8	--

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[1] For therapists working with severe organic and/or functional speech and/or hearing problems, the average monthly caseload may be as low as 25. Speech and hearing therapists may serve one or more schools.

[2] 10 if itinerant teacher is utilized.

[3] To be established in a plan approved by the State Commissioner of Education.

For special transportation, children must be "unable to use public transportation." **(R)**

Special transportation may be provided by school districts either individually or cooperatively, or through special education services associations. **(R)**

The state, in addition to minimum foundation program funds, provides reimbursement for excess costs, including special transportation, equipment, and instructional materials. **(R)**

"The state department upon a properly substantiated claim shall pay 100% of the cost of special buses and other special equipment actually employed in transporting handicapped children." **(R)**

PRIVATE

Local governments and school districts are not relieved of their responsibility to provide free public education to handicapped children by the availability of private schools and services. If such schools and services are utilized it continues to be a public responsibility to assure that handicapped children receive an appropriate quantity and quality of instructional and related services and that all their other rights are protected. **(Sec. 2E, Chap. 839, 1972) (L)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Special Education Grades 1-12 Endorsement (Certificate No. 8)

bachelor's degree, general education (40), professional education (24), special education (12-30)
approval by state commissioner of education

FACILITIES

" 'Special education facility' means a school or any portion thereof, remedial or supplemental facility or any other building or structure or part thereof intended for use in meeting educational, corrective, or related needs of handicapped children." **(Sec. 3D, Chap. 893, 1972) (L)**

Physical specifications of schools, classrooms, and other facilities likely to be used by handicapped children must be related to their special physical, educational, and psychological needs. School districts, special education service associations, agencies of the state and its subdivisions, or any private persons constructing, renovating, or repairing facilities wholly or partially using public funds must plan, design, locate, construct, equip, and maintain these facilities with regard to the special capabilities and requirements of the handicapped children to be accommodated in them whether or not these facilities are expressly intended or likely to be used by handicapped children. **(Sec. 2C, Chap. 893, 1972) (L)**

All school districts constructing, renovating, remodeling, expanding, or modifying school buildings or other structures must plan, design, construct, and equip all buildings in a manner and with such materials that will facilitate its use by all handicapped children who may reasonably be expected to enter and use them for instructional, remedical, or supplementary services. This subsection must be interpreted and administered in light of state policy to educate and provide services for handicapped children in, or in close proximity to, regular schools as much as possible. No school or school-related construction, renovation, remodeling, expansion, or modification is eligible for state aid unless the state department finds that it conforms with this section. **(Sec. 10A, Chap. 893, 1972) (L)**

Plans and specifications for all special education facilities must be prepared in two parts to include:

1. a statement of the educational and related objectives and functions to be served and the uses to be made of the facility; and
2. the architectural plans and specifications.

The plans must be submitted to the state department for approval. This approval is a prerequisite to awarding any construction contract except for contracts for development of required plans and specifications. No construction may commence or permits be issued prior to state department approval. Approval may be given only if the division for the education of the handicapped determines that the architectural plans and specifications properly implement the stated educational and related objectives and functions and, further, if the state department determines that the architectural plans and specifications provide for design, materials, and equipment appropriate to serve the stated objectives and functions. If the plans and specifications are for a building or other structure not including a special education facility, approval by the division of education for the handicapped shall be a certification that the submitting authorities have other adequate facilities to meet the needs for handicapped children. **(Sec. 10B, Chap. 893, 1972) (L)**

No facility to which this subsection applies shall be accepted by any agency of this state or any school district special education services associations or subdivisions unless it conforms to plans and specifications as approved or as amended. Subsequent to approval of plan and specifications they may be amended by showing that the stated educational and related objectives and functions have been replaced by other suitable objectives and functions and that the architectural plans and specifications have been modified to conform to the new objectives and functions or that the proposed amendment of architectural plans and specifications will not impair the suitability of the facility for the previously stated objectives. Amendments must be submitted and approved in the same manner as original submissions. Any entity eligible for state aid may qualify only on submission and approval of plans and specifications. **(Sec. 10B, Chap. 893, 1972) (L)**

The rules and regulations of the state board shall include procedures for submission and review of plans and specifications and may include requirements for additional information to be furnished by the school district, special education services association, or entities constructing or proposing to construct special education facilities. The manual is to be incorporated in the rules and regulations issued pursuant to this section and no approval or

The manual is developed, amended, and revised with regard to the standards applicable to the construction of special education facilities issued by recognized professional organizations. Public and private builders and operators of special education facilities may consult with the commissioner or his designated agent concerning any related matter to the administration of this section or any special education facility proposed to be constructed or operated by them. But no such consultation and no representation made shall be construed as an approval of plans or specifications. **(Sec. 10C, Chap. 893, 1972) (L)**

A special education fund in the state treasury is established. The state department budget must contain an amount sufficient to establish the fund. Grants will be made from the fund to school districts special education services associations, and other appropriate entities to:

1. secure technical assistance for planning, design, acquisition, and construction of facilities or equipment; and
2. supplement available but inadequate funds for planning, design, acquisition, or construction of facilities or equipment. **(Sec. 10D, Chap. 893, 1972) (L)**

In applying for grants, a school district, services association, or other entity must demonstrate that it proposes to use the aid for an identified purpose of the state plan or for a purpose selected by the division for education of the handicapped as one currently to receive concentrated efforts at improvement. These grants shall be in addition to regular or special aid otherwise available from the state for educational purposes. **(Sec. 10D, Chap. 893, 1972) (L)**

The state department may apply for, administer, receive, and expend any federal aid for which the state is eligible to administer this act. If the aid is available for a multistate or regional program in which the state participates, the state department may apply for and devote all or a portion of the federal aid to a multistate or regional program. **(Sec. 10E, Chap. 893, 1972) (L)**

STATE PROFILE

TEXAS

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

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RIGHT TO AN EDUCATION

Constitution: "A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the legislature of the state to establish and make suitable provision for the support and maintenance of an efficient system of public free schools." **(Art. VII, Sec. 1, Tex. Const. (L)**

Compulsory Attendance Law: Children whose physical or mental condition renders attendance inadvisable in a regular or special class supported by state funds are exempted from the compulsory attendance requirements. The evidence of this condition must be supported by a certificate of a physician specifying the condition and covering the period of attendance **(TEC Sec. 21.033) (L)**

Policy: "It is the intention of this act to provide for a comprehensive special education program for exceptional children in Texas." **(TEC Sec. 16.11) (L)**

Responsibilities: When the parents in any school district, of the required number of any type of exceptional children, or types which may be taught together, petition the governing board of that district for a special class, it shall be the duty of such board to request the Commissioner of Education to cooperate in the establishment of such class or classes. **(Education Code, Section 16.16(e), 1970) (L)**

There being no restriction or limitation in the statutes as to children eligible for free public school attendance where a bona fide residence has been established, a school district, therefore, has the responsibility to educate, free of tuition, children within the district residenced and enrolled in a private school for exceptional children where it is determined that enhancement of the children's progress will result from public school attendance. **(L)**

The Constitution of Texas provides for the general maintenance, financing and operation of free public schools. It is constitutional for the legislature to impose upon local boards of education the duty of cooperating with the Texas Education Agency in establishing classrooms for exceptional children. Section 1, Subsection 4(a) of Article 3922-13, Vernon's Civil Statutes, made special education services mandatory in public schools in the State of Texas. The Attorney General said this was constitutional. **(Op. Att'y. Gen., April 6, 1959)**

POPULATION

Definitions: " 'Exceptional children' means children between the ages of three and 21, inclusive, with educational handicaps (physical, retarded, emotionally disturbed, and/or children with language and/or learning disabilities as hereinafter more specifically defined); and children leaving and not attending public school for a time because of pregnancy which disabilities render regular service in classes in public school inconsistent with their educational needs.

Children who are auditorially handicapped are "those whose hearing is nonfunctional (after all necessary medical treatment, surgery, and/or use of hearing aids for the purpose of understanding normal conversation) and results in a delay in language or speech development or otherwise creates an educational handicap." **(R)**

Children who are speech handicapped are "children who have abnormality of speech calling adverse attention to itself, impairing communication, or causing maladjustment arising out of problems with articulation, rhythm, voice, and/or oral language." **(R)**

Children who are language and/or learning disabled are "children who are so deficient in the acquisiton of language and/or learning skills including, but not limited to, the ability to reason, think, speak, read, write, spell, or make mathematical calculations, as identified by educational and/or psychological and/or medical diagnoisis that they must be provided special services for educational progress. The term "language and/or learning disabled children" shall also apply to children diagnosed as having specific developmental dyslexia." **(L)**

" 'Physically handicapped children' means children of educable minds whose bodily functions or members are so impaired from any cause that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services." **(L)**

" 'Emotionally disturbed children' means children whose emotional condition is medically or psychologically determined to be such that they cannot be adequately and safely educated in the regular classes of the public schools without the provision of special services. **(L)**

Age of Eligibility: Children are eligible for special education services between the ages of three and 21. **(TEC Sec. 16.16) (L)**

"Children having only a language skill deficiency, such as set forth in the definition proposed by the Interim Committee on Language Disorders in Children, do not meet the statutory definition of 'exceptional children' set forth in paragraph (a) of Subsection (4) of Section 1 of Article 2922-13, Vernon's Civil Statutes, and there can be no allocation of 'exceptional children' teacher units for special education of children with such a language disability." **(Op. Att'y. Gen., September 29, 1966)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: Local school districts shall report pupils who are blind, deaf, mute, and mentally retarded between the ages of seven and 17, inclusive, who are not provided adequate educational services. Reporting shall be made according to the following described manner:

1. Each local school superintendent shall refer to the superintendent of the Texas School for the Blind or the Texas School for the Deaf any child who is blind or deaf who does not have adequate or appropriate educational facilities available in the area in which he resides.
2. a. A notification of referrals made to the Texas School for the Blind and the Texas School for the Deaf shall also be made to the Texas education agency by each local school superintendent. This notification shall include statements setting forth the basis for the determination that the child could not be served adequately or appropriately in the area in which the child resides.
   b. Each local school superintendent shall report annually to the Texas education agency the number of children and type of disability of children who are blind, deaf, mute, or mentally retarded for whom the local district has failed to provide adequate services. **(R)**

Annually the Texas education agency notifies local school superintendents of the availability of services in the Texas School for the Blind and the Texas School for the Deaf for blind and deaf pupils who may not have appropriate educational programs in local districts.

1. On or before June 1 of each year each local school superintendent refers to the superintendent of the Texas School for the Blind or the Texas School for the Deaf any child who is blind or deaf who does not have adequate or appropriate educational facilities available in the area in which he resides.
2. A copy of each referral made to the Texas School for the Blind or the Texas School for the Deaf is made to the department of special education and special schools by each local school superintendent. Included with these referrals are statements setting forth the basis for the determination why the child cannot be served adequately or appropriately in the area in which the child resides.
3. The annual special education statistical report required from each school district has an appropriate table whereby local school superintendents may report blind, deaf, mute, and mentally retarded pupils not provided appropriate educational services. This report is due on or before July 15 of each year. **(R)**

On or before October 30 of each year preceding a regular session of the Legislature, the Texas education agency shall furnish the Governor and the budget office of the Legislature with statistics relating to:

a. the number of children referred to or applying for admission to the Texas School for the Blind and the Texas School for the Deaf;
b. The number of blind or deaf children actually being served by these schools, and
c. the number of blind or deaf children who might be eligible for admission to these schools.

At the time the Texas education agency submits the biennial budget to the Governor's and the Legislative budget offices, a report of the number of children referred to or applying for admission to the Texas School for the Blind and the Texas School for the Deaf will be made. Also included in the report is the actual number of pupils served and the number of eligible pupils not admitted because of lack of facilities. **(R)**

Screening: The establishment of a screening program is the responsibility of the school district. The administration may set up in each school a screening committee. The screening committee includes all individuals involved with the child's educational program. Identification of the students may be accomplished through: vision, hearing and or speech screening; readiness testing, group mental ability testing, achievement testing, parent request, or teacher request.

The screening committee may also serve as the admission, review, and dismissal committee for the school.

Generally information requested includes the following: names, sex, legal race, justification of need for services and screening test results. **(R)**

Assessment and Placement: Each school district operating a special education program for exceptional children will have a policy concerning: parent or guardian approval for appraisal services; parent or guardian approval for placement in special education services; parent or guardian approval for release of relevant information from various diagnostic sources to the school for educational purposes; and parent or guardian approval for use of pupil information by other schools and agencies.

The state commissioner of education is responsible for determining criteria for pupil eligibility in special education. Information generally requested for the placement procedure includes the following: medical examination, educational appraisal, intelligence examination and psychological examination. **(R)**

For each pupil receiving special education services, there shall be a written educational plan and evidence of the pupil's need for service. **(R)**

Assignment to special education programs for exceptional children shall be made upon the recommendation of an admission, review and dismissal committee.

School districts shall not assign national origin-minority group pupils (or linguistically different pupils) to special education classes on the basis of criteria which was developed solely upon the command of the English language.

Pupils may not be placed in special education services if the only deficiencies identified are directly attributable to a different cultural life style, or not having had educational opportunities, or not having achieved from previous educational experiences.

Admittance to and maintenance in any special education program shall be on a trial basis.

An annual review of the appropriateness of each child's continued assignment to special education services as evidenced by progress or lack of it shall be made by an admission, review, and dismissal committee.

All special education assignments must be comprehensively reappraised at least every three years if assignments to special education services continue beyond three years. **(R)**

When school districts refer a pupil for a general medical evaluation, certain minimal information for the physician's use accompanies the referral. When a physician completes a general medical evaluation of a referred pupil, certain minimal information is required from the evaluating physician. Suggested reporting forms may be obtained from the department of special education, Texas education agency. **(R)**

Each school district operating a special education program shall develop and adopt local policies relating to cooperation with and permission from the parents or guardians of exceptional children.

An appraisal process shall be established by each school district providing special education services. This shall be an orderly and systematic process which includes pupil referral and screening, comprehensive assessment, educational planning, placement, dissemination, and evaluation of pupil data considered for special education services. s.

Each school district shall establish at least one committee for the screening, placement, review, and dismissal of pupils considered for and receiving special education services. Additional admission, review, and dismissal committees may be established as necessary for the operation of the local program. **(R)**

The appraisal process is an orderly and systematic continuum of services for pupils which provides for referral, screening; data analysis and alternatives; comprehensive assessment; admission, review, and dismissal; dissemination, and evaluation.

The goal of appraisal is to provide a basis for making decisions designed to bring about desired changes in pupil achievement and/or adjustment.

Referral is initiated when a pupil is perceived as having problems which may impede pupil achievement and/or adjustment. Referral may be made by the parent or guardian, physician, community agencies, other appropriate individuals, groups or organizations, school personnel, or as a result of the school's systematic screening procedures. Each referral is directed to the appropriately designated committee of the school.

Screening consists of generating and compiling all immediately available data. Each school is responsible for establishing procedures for collecting screening data to be submitted to the designated committee.

The committee analyzes and interprets data available on each pupil referred and determines the appropriate alternatives of:

a. eligible or ineligible for further consideration of special education services;
b. placement in diagnostic class;
c. referral for comprehensive assessment, specifying if possible, extent of assessment;
d. referral for other types or kinds of service;
e. referral directly to the admission, dismissal, and review committee; or
f. other alternatives.

Comprehensive individual assessment is the observation, diagnosing, and identification of individual pupil achievement and/or adjustment characteristics. It provides all necessary information for developing the educational plan, determining eligibility for special education services, and information for planning appropriate instructional arrangements.

Comprehensive individual assessment includes the following appropriate factors:

a. Intelligence factors. Comprehensive appraisal of intelligence factors consists of individually administered tests of mental ability designed to assess a wide range of intelligence factors from both verbal scales items, or their non-verbal equivalents, and performance scales items.

   Data to determine intelligence factors is not gathered solely from single-area reference tests such as vocabulary, strictly verbal tests, or strictly perceptual-motor tests; however, these instruments are used to gather additional data for the decision-making process.

b. Educational functioning. Comprehensive appraisal of educational functioning consists of securing data from formal and/or informal tests in the appropriate skill areas related to developmental, pre-academic, academic, pre-vocational, or vocational levels of performance.

c. Sociological variables. Comprehensive appraisal of sociological variables consists of evaluating the family dynamics and home environmental situation influencing the student's learning and/or behavioral patterns. Sociological data is obtained through communication and cooperation with the family.

d. Medical and health factors. Comprehensive appraisal of health factors consists of medical assessment and diagnosis of the student's physical condition, intended to reveal factors which have influence on student achievement and/or adjustment. This information is obtained when a health problem is perceived or suspected by either the referring party, screening committee, appraisal personnel, or as required to meet eligibility criteria.

e. Emotional and/or behavioral factors. Comprehensive appraisal of emotional and/or behavioral factors consists of data gathered from psychological and/or medical sources, teacher observation, and/or family information. This information is obtained when a behavioral and/or emotional problem is perceived or suspected by either the referring party, screening committee, appraisal personnel, or as required to meet eligibility criteria.

Each school is responsible for establishing a procedure for collecting the comprehensive individual appraisal data in a systematic manner to be submitted to the admission, review, and dismissal committee.

The educational plan is the translation of all information derived from the appraisal process into [illegible] and behavioral recommendations for the teacher. These recommendations

The admission, review, and dismissal committee is composed of at least three members, representing the areas of administration, instruction, and appraisal and/or special education.

The committee considers available information for the purpose of determining the eligibility of all pupils for original assignment (admission), continued enrollment (review), and termination for special education services (dismissal). Specifically, the act of determining eligibility includes the assignment of handicapping condition and is based on appropriate data derived from the total appraisal process. All required screening and appraisal data is submitted to the committee as minimum information for their consideration.

The admission, review, and dismissal committee performs the following minimum responsibilities:

a. reviews all available data

b. determines if the pupil meets the eligibility criteria

c. makes appropriate instructional placement designation

d. initiates development of educational plan, or modifies existing educational plan

e. reviews all special education assignments annually to determine continuation, change, reappraisal, or termination

f. develops an individual written summary of the deliberations, findings, and recommendations, following each meeting of the Committee. Each summary includes the date, the names, the positions, and the signatures of the persons participating in each meeting. A report is made and included in each pupil's eligibility folder.

Dissemination is the provision for the written educational plan to the personnel responsible for implementation. This may be further supported by conferences between supportive professional personnel and instructional personnel.

Evaluation is the on-going process of determining the effectiveness of the educational plan for each pupil in bringing about desired changes in pupil achievement and/or adjustment. A systematic follow-up is instigated with evaluation information of the effectiveness of the plan. This systematic follow-up may occur at any time but at intervals of no more than three months.

The local school district is responsible for establishing a procedure for evaluating each educational plan. The educational plan evaluation is written and reviewed by designated personnel responsible for modifying the plan, and filed in the student's individual folder. **(R)**

For the auditorially handicapped these steps are followed:

1. Otological examination and audiologist evaluation on the nature and extent of the child's hearing.
2. Written report of educational appraisal which will include assessment of abilities and disabilities and instructional and behavioral recommendations for teaching which describe educational environment and specific methods and strategies which will maximize learning.
3. Physician's written report of general medical evaluation. **(R)**

For the language and/or learning disabled, these steps are followed:

1. Written report of assessment showing total intellectual functioning not more than two standard deviation units below the norm.
2. A written report of assessment revealing evidence of a deficit or deficits in one or more of the basic psychological learning processes of auditory, visual, or haptic processing, intersensory integration and/or concept formation.
3. A written report of educational assessment substantiating a discrepancy between age level expectancy and current educational performance. This criterion may not necessarily apply to pupils ages 3 through 5 years of age.
4. Documented evidence must be offered to indicate that the child's learning style deviates so markedly from the norm of his age group that he requires special education intervention.
5. Physician's written report of general medical evaluation. **(R)**

For the speech handicapped, these steps are followed:

1. Grade or program placement.
2. Written report from a certified speech and hearing therapist giving the type of disorder and the degree of severity based on appropriate tests.
3. Written plan of therapy for each individual pupil.
4. A comprehensive appraisal shall be made to determine the appropriateness of continuing services for a speech handicapped pupil if he has not made satisfactory progress after two years of speech services. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The state board of education is responsible for establishing the rules and regulations for special education classes. **(TEC Sec. 16.16)(L)**

The central education agency has exclusive jurisdiction over the state schools for the deaf and the blind. **(TEC Sec. 11.03 and TEC Sec. 11.06)(L)**

Responsibilities of the Texas coordinating commission for state health and welfare services include:

1. studying diagnostic services, care and training, education, and rehabilitation programs for the handicapped;
2. studying and determining the need for changes in the laws that apply to the care, education, training, and rehabilitation of the handicapped. **(4447C)(L)**

"The application forms for reimbursement for the excess costs of educating exceptional children required under Article 2922-3, Section 2, V.A.C.S., to be filed with the State Department of Education, must bear the sworn signature of the County Superintendent and the Superintendent or Principal of the school making same, before said Department may approve same and make payment thereon. If said application forms have been lawfully executed by the proper Board of School Trustees in accordance with Articles 2922-2 to 2922-8, V.A.C.S., the County Superintendent has no right to refuse to approve same merely because he thinks it is not to the best interest of the school. *Peery v. Carlile*, 139 S.W. 2d 779." **(Op. Att'y Gen., Feb. 27, 1947)**

PLANNING

Accredited local school districts applying for foundation school program funds in special education must develop a comprehensive plan which shows the orderly development and operation of the program over a five year period. An annual evaluation of the special education program shall also be made, including parts prescribed by and submitted to the Texas education agency. **(R)**

The special education five-year planning document is required by the state board of education and is kept in duplicate on file at the local school district. Review of the planning document may be requested at any time by the Texas education agency for monitoring or other purposes. The format of the document is in accordance with the guide as developed by the Texas education agency. **(R)**

On or before July 15, of each school year, each local school district is required to return the annual special education statistical report. This report form is provided by the Texas education agency before the beginning of the school year. This form is designed primarily to evaluate the quantity of special education services. Various quality studies sampling certain school districts may be carried out during the year in addition to the Annual Special Education Statistical Report. **(R)**

Advisory committees for special education, both special and continuing, may be established as necessary for the best interest of exceptional children in the development of special education programs in accordance with policies of the State Board of Education relating to advisory groups. **(R)**

The Texas education agency shall assist in the necessary operation of and utilize the services of advisory committees, councils, or commissions for special education as may be created by the Legislature. **(R)**

The Texas education agency provides necessary staff, offices, and facilities for the Advisory Council for Language Handicapped Children to conduct its business.

As the Advisory Council for Language Handicapped Children studies problems of identification and treatment of problems of children with language disabilities, information and advice as may be appropriate are transmitted to the commissioner of education and the agency staff.

Other activities of the agency as prescribed by the statute establishing this Advisory Council will be followed. **(R)**

The Texas education agency provides necessary staff, offices and facilities for the Advisory Council for Children with Learning Disabilities to conduct its business.

As the Advisory Council for Children with Learning Disabilities studies problems of identification and treatment of problems of children with learning disabilities, information and advice as may be appropriate are transmitted to the commissioner of education and the agency staff. **(R)**

FINANCE

Under rules, regulations and or formulas adopted by the state board of education, exceptional children teacher units, in addition to other professional and paraprofessional units, will be alloted to any eligible school district. Exceptional children teacher units for pupils who are severely physically handicapped or mentally retarded will be allocated from a formula different from other types of units. The minimum salary for psychologists and other pupil evaluation specialists used in computing salary allotments will be established by the state commissioner of education. Qualifications and minimum salary levels of paraprofessional personnel for salary allotment purposes will be established by the state commissioner of education. A quantitative basis for the allotment of all special education unit personnel will be established by the state commissioner of education under rules of the state board of education. [redacted] (L)

Any school district, at its own expense, may employ special education personnel in excess of its state allotment and may supplement the minimum salary allotment by the state. Districts are further authorized, at local expense, to pay for all or part of further or continuing training or education of their special education personnel. Special education unit personnel may be employed and or utilized on a full-time, part-time, or a consultative basis. Personnel may be alloted by the state commissioner pursuant to cooperative district agreements to serve two or more districts. [redacted] (L)

Each school district operating an approved program will be alloted a special service allowance. This allotment is determined by the state commissioner and is for pupil evaluation, special seats, books, instructional media, and other supplies required for quality instruction.

Each school operating an approved program will be allotted a transportation allowance for transporting children in special education who are unable to attend the program unless such special transportation is provided. The annual transportation allotment will be $150 per exceptional child receiving such transportation. Allocated transportation funds may be used only for transportation purposes for children enrolled in a program of special education, who are eligible in a program of special education, or who are eligible for such enrollment. [redacted] (L)

The minimum monthly base pay and increments for teaching experience for an exceptional child or a special service teacher conducting a 9-, 10-, 11-, or 12-month special education program shall be the same as that of a classroom teacher provided in the Foundation Program Act, if the special education teachers have the qualifications required by the state commissioner of education. The annual salary of special education teachers will be the monthly base pay plus increments multiplied by 9, 10, 11, or 12. Minimum monthly base pay in increments for teaching experience for special education counselors and supervisors engaged in 9-, 10-, 11-, or 12-month special education programs approved by the commissioner is the same as that of a counselor or supervisor in the Foundation Program Act if they have approved qualifications. **(TEC Sec. 16.16) (L)**

Professional personnel for the operation and maintenance of special education programs shall include teachers of exceptional children, special education supervisors, special education counselors, special service teachers such as itinerant teachers for the homebound and visiting teachers whose duties may or may not be performed on the campus of any school, psychologists, and other pupil evaluation specialists. Paraprofessional personnel include persons engaged as teacher aides, who may or may not hold a teaching certificate. **(TEC Sec. 16.16) (L)**

Deaf or blind persons may receive tuition exemptions at any wholly or partly state supported institution of higher education in the state. **(TEC 11.27) (L)**

Persons who are at least 18 years of age and who have completed a four year course of study in an accredited college, professional or technical school, or an approved teacher training center and who graduate with a degree including 10 semester hours of education with not less than five hours of principles and methods of teaching the type of handicapped child they are being certified to teach, are granted a permanent first class certificate to teach the deaf and blind. **(TEC Sec. 11.03 and 11.06) (L)**

Teachers, with five years of successful teaching experience of any particular type of handicapped children prior to 1935, are granted a permanent first class certificate entitling them to teach that type of handicapped child or that industrial or special subject in the school for the deaf or school for the blind. **(TEC, Secs. 11.03 and 11.06) (L)**

The state board of mental health and mental retardation may establish and maintain in its own institutions or may approve, as diagnostic centers, facilities run by public and private agencies. A diagnosis from an approved center will be equal to a diagnosis from any of the boards' centers. The services of the centers are on an ability-to-pay basis. After completion of the diagnosis the board may, among other things, inform the parents or guardian of a school age child that the child should be placed in a special education class in the public schools. **(VACS 3871B) (L)**

School age persons on furlough from the state institutions for the mentally retarded are eligible for public school education classes if they can profit from the instruction. **(VACS 3871B) (L)**

To provide for the continuance of additional programs for the instruction and training of handicapped persons between the ages of 6 and 21, independent rehabilitation districts are eligible and shall be allotted administrative units, special service personnel, exceptional child teacher units, vocational units, and other special education personnel in the same manner as independent school districts through the foundation program of the central education agency. This became effective for the scholastic year beginning September 1, 1971. The general counsel of the education divisions for policy and procedures of the U.S. Department of Health, Education, and Welfare has ruled that without this amendment independent rehabilitation districts are not free public schools for the purposes of direct allocation of Title I ESEA funds. (TEC Sec. 11.26) (L)

Local school districts operating special education programs for exceptional children and regional education service centers providing appropriate special education services shall adhere to budgeting, accounting, and auditing practices as specified by the Commissioner of Education. Either Bulletin 613, *Budgeting, Accounting, Auditing, A Guide for Texas Public Schools*, or Bulletin 679, *Financial Accounting Manual*, shall be used. **(R)**

Local school districts operating special education programs for exceptional children and regional education service centers providing appropriate special education services shall be subject to program reviews, monitoring, audit, accreditation visits, and/or other regulatory procedures as may be deemed necessary by the Texas education agency. **(R)**

Comprehensive Programs for Exceptional Children (Plan A) shall be available on a statewide basis by September 1, 1976. A selected number of school districts each year will be approved to develop Comprehensive Programs for Exceptional Children (Plan A). Other school districts shall be approved to operate special education programs based on "Allocations Based on Identified Handicapped Pupils" (Plan B) until September 1, 1976.

Both types of special education programs (Plan A and Plan B) shall be financed by the state and each participating district through the foundation school program funding arrangement. **(R)**

An annual expenditure report of the basic support allocation is made. Funds not expended during the school year are deducted from the following school year's allocations.

The intent of state support for appraisal services is to enhance or augment existing appraisal services rather than to support the total appraisal process.

This allotment is for initial appraisals as well as reappraisals of pupils considered for or receiving special education services.

The local school district may: perform all appraisals and reappraisals by their own certified staffs; or perform part of the appraisals and reappraisals by their own certified staff and part by contracting services from certified professional personnel or groups; or contract or join cooperatively for services for appraisal and reappraisal services with a regional education service center or other tax-supported qualified school service agency employing certified personnel.

The special materials allocation will be used to improve the quality of instruction in special education programs. The allocation may be utilized for special books, instructional media, and other supplies including consumable materials, appropriate for instruction for and with eligible handicapped pupils.

The allocation which is made to the regional education service center is to be used for the support of the "Texas Plan for Special Education Instructional Material Services." The regional education service center shall use this allotment for the support of the materials center. The monies may be used for the acquisition of materials, personnel, and other necessary expenses for the development of the system.

The local school district is expected to: make its payment to the regional education service center within 30 days of the receipt of funds; utilize no more than 25 per cent of the allotment for consumable materials; and utilize the remaining allotment for special books, instructional media, and other supplies appropriate for special education instructional programs.

The regional education service centers are expected to comply with the regulations in operation of the Texas system of special education instructional materials centers.

Funds from the local school district paid to the education service center are used to support these centers. The major portion of such funds is used for the purchase of instructional materials for the centralized lending library. No more than 50 percent is used for personnel and other necessary expenses in the operation of the center.

The school district may utilize funds allocated for consultative services in the following manner: effective program evaluation and planning of its comprehensive special education efforts; strengthening component parts of special education on a consultative basis; or special consultants as may be needed in working with individual handicapped pupils.

The suggested fee schedule for consultative services personnel is available upon request.

The allocation which is made to the regional education service center is to be used to support regional and local planning and evaluation activities necessary for the development and operation of a statewide program for comprehensive special education for exceptional children.

Education service centers utilize these funds for employing either full-time or part-time personnel or for contracting services that assist in regional program planning and evaluation, as well as local school district program planning and evaluation. Program implementation is considered to be part of the process of program planning and evaluation.

The required allocation which goes to the education service center is not to be considered as payment for consultative services to be rendered to a specific local school district for a specific consultative activity.

Education service centers may not use the required allocation received from local school districts for the support of training activities which are designed to assist personnel to meet certification requirements.

The local school district and the regional education service center will establish revenue and expenditure accounting records to assure effective utilization of appraisal, special materials, and consultative services.

Other allocations to support the special education program shall be made as provided by policy and administrative procedure for the following: textbooks for special education **(Policy 2.8)**; special seats and electronic communication services **(Policy 2.9)**; special transportation **(Policy 2.10)**; contracting with approved non-public schools for exceptional children **(Policy 2.11)**. **(R)**

Local school districts applying for special education programs may submit applications for preliminary approval on or before June 15 on forms furnished by the Texas education agency.

Final approval will be made after the local school district files the verification report which gives the extent of special education programs and services as of the date established by the commissioner of education.

School districts operating under Plan A approval have until February 1 to activate approved personnel units which are authorized by preliminary approvals. **(R)**

The total cost of operating county-wide day schools authorized by this section shall be borne entirely by the state and shall be paid from the foundation school program fund.

No part of the operating costs herein provided for shall be charged to the school districts of this state.

Formulas as set forth in the statutes shall be used in determining the operating costs for the programs as authorized.

The salary to be paid a teacher, supervisor, visiting teacher, or principal in the county-wide or bi-county-wide day school for the deaf shall be in accordance with the salary schedule of the district where the day school is established.

No state funds provided for the day schools for the deaf shall be used for any other purpose. **(R)**

Local school districts establishing this program are allocated teacher units on the basis of the following formulas:

	County-Wide	Bi-County-Wide
Teachers	1 for each 8 pupils or major fraction.	1 for each 7 pupils or major fraction.
Principals	1 for each 15 or more teachers.	1 for each such school.
Supervisors	1 for each 10 teachers not to exceed 3; however, a minimum of one for each approved school.	1 for each 10 teachers not to e[illegible] 3; however, a minimum of 1 for each approved school.

Visiting Teachers One One

An operation expense allotment of $700, including transportation, is allowed per each eligible deaf pupil enrolled in the program on the first Monday in October or the designated date for each current school year.

The cost of the above program is added to the district's foundation school program allotment and each district will receive its payments in the same manner that regular foundation payments are made.

One initial allotment in the amount of $3,000 per teacher unit approved for the first year of operation only for the inauguration of an elementary program, ages 6 through 13, inclusive, is allowed for the acquisition of transportation vehicles, auditory and other classroom equipment and other aids and adjustments needed for training such deaf pupils in this program.

Another initial allotment in the amount of $3,000 per teacher unit approved for the first year of operation only for the inauguration of the secondary program, ages 14 through 21 inclusive is allowed for the acquisition of transportation vehicles, auditory and classroom equipment, and other aids and adjustments needed for training such deaf pupils in the secondary program.

The cost of this program is determined by statutory formulas. The act provides that all state funds allocated are used for no other purpose than for the operation and maintenance of county-wide or bi-county-wide day schools for eligible deaf pupils. The district will keep revenue and expenditure accounts for these monies. If, at the end of the school year, the revenues exceed the expenditures, the excess will be returned to the Texas education agency.

The county-wide or bi-county day school is operated for the same school calendar year as that of the operating school district.

The preliminary application for funds is filed by each designated school district with the finance division of the Texas education agency on or before August 20 of each year, such application to serve as a tentative basis for allocating funds. The application contains an estimate of enrollment for the school year concerned and has attached an official salary schedule of the designated school district.

The application is to also contain information as to the certificate number, degree status, years of experience, salary, etc., for each teacher, principal, supervisor, or visiting teacher assigned to the program. If all eligible units have not been filled at the time the preliminary application for funds is filed, the district may estimate the salaries to be paid for such units.

The enrollment on the first Monday in October of each year or on such date designated by the district in its preliminary application for funds is to serve as a basis for allocating funds for that year.

In addition to the preliminary application for funds, the district is required to file a final application for funds which will reflect the number of eligible pupils enrolled the first Monday in October or on the designated date. **(R)**

The amount paid under a contract for each eligible child shall not exceed the average cost per pupil under the program of county-wide day schools for the deaf. The cost of this program shall be borne entirely by the state and shall be paid from the foundation school program fund. **(R)**

The Texas education agency determines annually the average per pupil cost in the operation of the county-wide day schools for the deaf. This amount is the amount of contract reimbursement for the following school year.

The parent or guardian of an exceptional child, for whom the local school district has contracted, will be charged no additional tuition.

Reimbursement of approved contracts is made to the local school district through its regular foundation fund payments.

The district will keep revenue and expenditure accounts for these monies. If, at the end of the school year, the revenues exceed the expenditures, the excess will be returned to the Texas education agency.

In school districts where one contract pupil moves during the school year and can no longer attend the private school, and another pupil moves in or is determined eligible, the contract may cover the new pupil. If the pupil moves to another district but can continue to attend the private school, this pupil may continue to be covered by the initial contract from the initiating school district. **(R)**

The Texas education agency shall allocate to rehabilitation districts for handicapped persons, exceptional children's teacher units and other special education resources as authorized for the education of eligible pupils between the ages of 14 and 21, both inclusive.

The formula for "Programs Based on Identified Handicapped Pupils" (Plan B) shall be utilized for these allocations.

The cost of these allocations is to be financed entirely by the state and are to be paid from the foundation school program fund.

The rehabilitation district shall be subject to the same policies and administrative procedures as any other local school district operating a special education program. **(R)**

The superintendent of a rehabilitation district for handicapped persons applies to the Texas education agency in the same manner prescribed for local school districts for the allocation of special education funds. The application is processed and approved in the same manner as other applications from local school districts.

The Texas education agency shall allocate to the department of corrections, exceptional children's teacher units and other special education resources as authorized for the education of eligible handicapped, incarcerated persons who are not high school graduates.

The formula for "Programs Based on Identified Handicapped Pupils" (Plan B) shall be utilized for these allocations.

The cost of these allocations is to be financed entirely by the state and are to be paid from the foundation school program fund.

The department of corrections shall be subject to the same policies and administrative procedures as any other local school district operating a special education program. **(R)**

The designated official in the department of corrections applies to the Texas education agency in the same manner prescribed for local school districts for the allocation of special education funds. The application is processed and approved in the same manner as other applications from local school districts. **(R)**

Funds for special education programs made available from the federal government for the education and training of handicapped pupils or the preparation and training of personnel who work with handicapped pupils shall be utilized in accordance with state and federal laws and an approved state plan for each program. All funds shall be utilized in the total statewide effort for the development of comprehensive programs for exceptional children. **(R)**

Federal funds are made available and programs approved by the Department of Special Education and Special Schools for the following programs:

1. Education for the handicapped Act, Public Law 91-230, Part B

   The program is operated under the authority of an approved state plan.

   Programs and projects for the initiation, improvement, and expansion of special education programs and services for handicapped pupils are funded and operated on a statewide basis, through a local school district, or through a regional education service center.

2. Education for the Handicapped Act, Public Law 91-230, Parts D and G

   The program is operated under the authority of an approved state plan.

   Programs such as, but not limited to, special study institutes, short-term traineeships, and short-term institutes are provided for the preparation of professional personnel working with handicapped children.

The department of special education and special schools has a planning and consultative responsibility in the utilization of other federal funds made available for special education programs and services. Examples of some of these programs are: Elementary and Secondary Education Act, Title I, as amended by Public Law 89-313; Elementary and Secondary Education Act, Title III, 15 Percent for the Handicapped; Vocational Education for the Handicapped. **(R)**

The enrollment on the first Monday in October of each year or on such date designated by the district in its preliminary application for funds is to serve as a basis for allocating funds for that year. **(R)**

In addition to the preliminary application for funds, the district is required to file a final application for funds which will reflect the number of eligible pupils enrolled the first Monday in October or on the designated date. **(R)**

The State Board of Control can legally allot money for readers to read to blind college students who may be attending college outside the state of Texas. **(Op. Att'y. Gen., Sept. 17, 1940)**

The Department of Education may make partial payment to school systems in the middle of the school year for the education of exceptional children. Final payment may then be made in the summer after a complete final report of the expenses has been made. This practice is allowed under the acts regarding the education of exceptional children, S. B. 38, Acts 1945, 49th Leg., R.S. **(Op. Att'y. Gen., January 19, 1946)**

The Rio Grande Independent Rehabilitation District is an independent school district and is thus eligible for state transportation aid in transporting its handicapped students. **(Op. Att'y. Gen., February 21, 1968)**

ADMINISTRATIVE STRUCTURE AND ORGANIZ TION

BEST COPY AVAILABLE

Two or more school districts may jointly operate speci education programs. Any school district may contract, where feasible, with any other school strict for all or part of the program under the rules and regulations established by the state mmissioner of education. One district serves as the fiscal agent for the program. (L)

Programs operated cooperatively or jointly between tw or more school districts must be described in the special education five-year planning document. (R

One school district contracting with one or more distri s for part or all of its programs and services for exceptional children must describe such arra ements in the special education five-year planning document. (R)

Special education pupils are eligible for transfers from ne school district to another on the same basis as other pupils in accordance with existing st utes, policies, and administrative procedures. The receiving district may accept or reject the plication according to policies of the local board of trustees. (R)

The Texas education agency is authorized to establis on a county-wide basis special day schools for the deaf in all counties having a population o 300,000 or more inhabitants, according to the last preceding federal census. (L)(R)

The Texas education agency is authorized to establis on a bi-county-wide basis special day schools for the deaf in any two contiguous countie whose cumulative population exceeds 240,000 but does not exceed 335,000 inhabitants according to the last preceding federal census. (R)

School districts in counties contiguous to thos authorized to operate a bi-county-wide day school for the deaf may participate in the day sch ol for the deaf program upon approval by the Texas education agency of requests from a school district in a county contiguous to those counties authorized to operate the bi-county day scho and the school district designated to conduct the school. Such authorized participation shall be n the same basis as for school districts within the counties authorized to operate the school. (R)

Upon approval of the Texas education agency a d the school district designated to conduct the school, those school districts in counties which ar contiguous to the contiguous counties which are authorized to participate in the bi-county-wide day schools for the deaf also may participate on the same basis as school districts within ounties previously authorized to operate the schools. (R)

Designated day schools, county or bi-county, shall be administered by a centrally located school district designated by the Texas education agency. The designated school district shall provide appropriate physical facilities, buildings, equipment, supplies, materials, and transportation to all eligible children residing in the county or bi-counties designated to operate day schools for the deaf. (R)

In a contract between the commissioner and the authorized school district the following is stipulated. The Texas education agency provides financial support to the county-wide day schools for the deaf in accordance with provisions of the statutes authorizing the program, and the designated local school district provides the administration, educational program, pupil transportation services, and necessary facilities to maintain and operate the county-wide day schools. The program is located on one school campus unless otherwise approved by the Commissioner. (R)

All deaf children between the scholastic ages of 6 and 21, inclusive, residing in the county providing a day school program therein authorized for such scholastics, shall be eligible to attend the school designated by the operating district. (R)

Deaf children between the scholastic ages of 6 and 13, inclusive, in such counties (heretofore eligible for admission in the Texas School for the Deaf) are not eligible for admission to the Texas School for the Deaf except upon recommendation of the superintendent of the operating district with the concurrence of the superintendent of the Texas School for the Deaf. (R)

Children enrolled in the county-wide day schools in such counties, who become 14 years of age on or before December 31, are eligible for admission to the Texas School for the Deaf or to continue their academic training and program of vocational planning, guidance, and training in the special day school. (R)

Pupils who are deaf and severely hard of hearing (auditorially handicapped) are those whose hearing is nonfunctional (after all necessary medical treatment, surgery, and/or use of hearing aids) for the purpose of understanding normal conversation and results in a delay in language and/or speech development or otherwise creates an educational handicap. (R)

Admission to the program is made after evaluations have been completed on the following: physical status, otological examination, audiologist's evaluation, educational background and intellectual assessment, and medical and family history. In the case of a multi-handicapped child, deafness must be the major handicap. (R)

A local admission, review, and dismissal committee is established. This committee has the responsibility for admission of pupils to the program, for annually reviewing the progress of each pupil, and for dismissal of pupils from the program. (R)

On accepted transfers, the receiving district may charge a reasonable tuition not to exceed a reasonable estimate of local operating cost. The receiving district has a responsibility of notification of tuition increase 60 days prior to June 1. (R)

	County-Wide	Bi-County-Wide
Supervisors	One for each 10 teachers not to exceed three, however, a minimum of one for each approved school	One for each 10 teachers not to exceed three, however, a minimum of one for each approved school.
		One

RIGHT TO AN EDUCATION

Constitution: "... a competent number of schools ought to be maintained in each town, for the convenient in

An operation expense allotment of $700, including transportation, is allowed per each eligible deaf pupil enrolled in the program on the first Monday in October or the designated date for each current school year. **(R)**

One initial allotment in the amount of $3,000 per teacher unit approved for the first year of operation only for the inauguration of an elementary program, ages 6 through 13, inclusive, is allowed for the acquisition of transportation vehicles, auditory and classroom equipment and other aids and adjustments needed for training such deaf pupils in the secondary program. **(R)**

The cost of this program is determined by statutory formulas. The law provides that all state funds allocated are used for no other purpose than for the operation and maintenance of a county-wide or bi-county-wide day school for eligible deaf pupils. The district will keep revenue and expenditure accounts for these monies. If, at the end of the school year, the revenues exceed the expenditures, the excess will be returned to the Texas education agency. **(R)**

The preliminary application for funds is filed by each designated school district with the finance division of the Texas education agency on or before August 20 of each year, such application to serve as a tentative basis for allocating funds. The application contains an estimate of enrollment for the school year concerned and has attached an official salary schedule of the designated school district. **(R)**

In addition to meeting the provisions of the policies and administrative procedures for pupil transfers applicable to all students of the state, the tuition of special education pupils who transfer is the responsibility of the parent or guardian if service is provided in the home district. If services are not provided in the home district, that district (home district) has a responsibility for tuition payment. **(R)**

An application for transfer can be requested from the division of finance of the Texas education agency by the receiving district. This form is returned to the division of finance by June 1 preceding the school year in which the transfer is to take effect. Upon approval by the Texas education agency, state funds for the student being transferred are assigned to the receiving district. In certain hardship cases approval may be granted for transfers when the application is received by October 1 of the year in which the transfer is to take effect. **(R)**

No school district within a county which has a county-wide or bi-county-wide day school for the deaf is eligible under the regular program of special education to apply for teacher units or contract allocations with approved non-public schools for deaf pupils in the age range served by the county-wide program. **(R)**

The total cost of operating county-wide day schools must be borne entirely by the state and shall be paid from the foundation school program fund. **(R)**

No part of the operating costs herein provided for may be charged to the school districts of this state. **(R)**

Formulas as set forth in the statutes must be used in determining the operating costs for the programs as authorized. **(R)**

The salary to be paid to a teacher, supervisor, visiting teacher, or principal in the county-wide or bi-county-wide day school for the deaf must be in accordance with the salary schedule of the district where the day school is established. **(R)**

No state funds provided for the day schools for the deaf may be used for any other purpose. **(R)**

Local school districts establishing this program are allocated teacher units on the basis of the following formula:

	County-wide	Bi-County-Wide
Teachers	One for each 8 pupils or major fraction.	One for each 7 pupils or major fraction.
Principals	One for each 15 or more teachers.	One for each such school.

The Texas education agency is authorized to establish on a county-wide basis special day schools for the deaf in all counties having a population of 300,000 or more inhabitants, according to the last preceding federal census.

The Texas education agency is authorized to establish on a bi county-wide basis special day schools for the deaf in any two contiguous counties whose cumulative population exceeds 240,000 but does not exceed 335,000 inhabitants according to the last preceding federal census.

• School districts in counties contiguous to those authorized to operate a bi-county-wide day school for the deaf may participate in the day school for the deaf program upon approval by the Texas education agency of requests from a school district in a county contiguous to those counties authorized to operate the bi-county day school and the school district designated to conduct the school. Such authorized participation shall be on the same basis as for school districts within the counties authorized to operate the school.

Upon approval of the Texas education agency and the school district designated to conduct the school, those school districts in counties which are contiguous to the contiguous counties which are authorized to participate in the bi-county-wide day schools for the deaf also may participate on the same basis as school districts within counties previously authorized to operate the schools. **(R)**

The commissioner of education designates the local school district in eligible counties to operate day schools for the deaf.

In a contract between the Commissioner and the authorized school district the following is stipulated: the Texas education agency provides financial support to the county-wide day schools for the deaf in accordance with provisions of the statutes authorizing the program, and the designated local school district provides the administration, educational program, pupil transportation services, and necessary facilities to maintain and operate the county-wide day schools. The program is located on one school campus unless otherwise approved by the Commissioner.

No school district within a county which has a county-wide or bi-county-wide day school for the deaf is eligible under the regular program of special education to apply for teacher units or contract allocations with approved non-public schools for deaf pupils in the age range served by the county-wide program. **(R)**

The application is to also contain information as to the certificate number, degree status, years of experience, salary, etc., for each teacher, principal, supervisor, or visiting teacher assigned to the program. If all eligible units have not been filled at the time the preliminary application for funds is filed, the district

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

" "Section 2 of Art. II of Article 2922-3, V.C.S., does not prohibit the Department of Education from accepting applications for aid for exceptional children after September 1 of the school year. In this regard, the statute is directory and not mandatory." **(Op. Att'y. Gen., November 8, 1948)**

SERVICES

" 'Special services' required for the instruction of a program for exceptional children means special teaching in the public school curriculum within or without the regular classroom, corrective teaching, such as lip reading, speech correction, sight conservation, corrective health habits, transportation, special seats, books, instructional media and supplies, professional counseling with students and parents, and supervision of professional services and pupil evaluation services that establish teaching techniques for children with language and or learning disabilities. **(TEC Sec. 16.16) (L)**

A six-member state commission for the deaf is appointed by the governor with the advice and consent of the Senate. Two members must be deaf and all members must be outstanding citizens of Texas. The commission shall appoint a qualified person to serve as executive director. To be qualified to serve in this position a person should preferably be deaf or hard of hearing. The commissioner is responsible for rendering all services to the deaf except those which are by law the responsibility of the welfare, education or other state agencies. The commission shall also conduct a census of deaf persons and keep a card registry. The commission shall serve as the agency for the collection of information concerning the deaf in a manner related to the dispensing of information to interested persons. **(Chapter 640, Acts of 1971) (L)**

A state program shall be established by the central education agency for the education of deaf adults. The purpose of the program is to provide primary and secondary educational opportunities to adults whose hearing loss is severe enough to prevent use of the spoken method of communication; that is, if his handicap has not interfered with the retainment of the level of educational advancement otherwise potentially feasible. The programs shall operate in the following manner:

1. Criteria and standards for determining the degree of hearing loss which will make a person eligible for education must be developed.
2. Criteria and standards for determining teacher qualifications, curriculum, equipment and classroom facilities which must be provided by the school district to qualify for state aid must also be developed.
3. The agency must publish and distribute the rules under which school districts may apply for or qualify for and receive state assistance.
4. To establish an educational program for deaf adults qualifying for state assistance, a district must comply with the central education agency rules and standards and must have at least ten eligible deaf enrollees.
5. Subject to appropriations from the general fund, the available school fund, the minimum foundation and other available funds, the central education agency shall allocate to each qualifying district $250 for each student enrolled per year in the district program for deaf adults. **(TEC Sec. 11.16 (L)**

To be eligible for special transportation, children must be unable to attend the program unless such transportation is provided. **(R)**

Pupils unable to utilize regular transportation are provided special transportation to assist them to receive educational services. The local school district establishes the pupil's need for special transportation and provides the type and kind of special transportation needed.

The annual special transportation allotment will be $150 per exceptional child receiving such transportation. This is paid to the school district in two installments. **(R)**

Class Size:

	Number of Pupils Minimum	Number of Pupils Maximum
SPEECH HANDICAPPED		
Half Unit (Caseload)	30	—
Unit (Caseload)	60	—
2 Units (Caseload)	110	—
Number of children for each unit above 2	60	—
LEARNING DISABLED		
Half Unit (Half-day Special Class) (Minimally Brain Injured)	4	
Unit (Special Class (minimally Brain-Injured)	8	
2 Units (Special Classes) (Minimally Brain-Injured)	14	
Number of children for each unit above 2 (Minimally Brain-Injured)	10	
AURALLY HANDICAPPED AND DEAF		
Half Unit (Half-day Special Class) (Auditorially Handicapped)	4	
Unit (Special Class) (Auditorially Handicapped)	8	
2 Units (Special Classes) (Auditorially Handicapped)	14	
Number of children for each unit over 2 (Special Classes) (Auditorially Handicapped)	10	
Half Unit (Half-day Special Class) (Preschool Deaf)	4	
Unit (Special Class) (Preschool Deaf)	6	
2 Units (Special Classes) (Preschool)	12	
Number of children for each unit above 2 (Preschool Deaf)	8	**(R)**

A special education program shall be provided in accordance with state statutes for preschool children, including the ages of three, four and five years, who have a hearing loss sufficiently severe to prevent adequate progress in speech development. **(R)**

Class Size:	NUMBER OF PUPILS	
	Minimum	Maximum
SPEECH HANDICAPPED		
Half Unit (caseload)	30	--
Unit (caseload)	60	--
2 Units (caseload)	110	--
Number of children for each unit above 2	60	--
LEARNING DISABLED		
Half Unit (half-day Special Class) (Minimally Brain Damaged)	4	--
Unit (Sepcial Class) Minimally Brain Injured)	8	--
2 Units (Special Class) (Minimally Brain Injured)	14	--
Number of children for each unit above 2 (Minimally Brain Injured)	10	--
AURALLY HANDICAPPED AND DEAF		
Half Unit (half-day Special Class) (Auditorially Handicapped)	4	--
Unit (Special Class) (Auditorially Handicapped)	8	--
2 Units (Special Class) (Auditorially Handicapped	14	--
Number of children for each unit above 2 (Auditorially Handicapped)	10	--
Half Unit (half day Special Class) (Preschool Deaf)	4	--
Unit (Special Class) (Preschool Deaf)	6	--
2 Units (Special Classes) (preschool)	12	--
Number of children for each unit above 2 (Preschool Deaf)	8	--
EDUCABLE MENTALLY HANDICAPPED		
Half Unit (half-day Special Class)	4	--
Unit (Special Class)	8	--
2 Units (Special Classes)	14	--
Number of children for each unit above 2	14	--
TRAINABLE MENTALLY HANDICAPPED		
Half Unit (half-day Special Class)	4	--
Unit (Special Class)	8	--
2 Units (Special Classes)	14	--
Number of children for each unit above 2	14	--
PHYSICALLY HANDICAPPED		
Half Unit (half-day Special Class)	4	--
Unit (Special Class)	8	--
2 Units (Special Classes)	14	--
Number of children for each unit above 2	14	--
Pregnant Students (Special Classes in School, Community Class, Maternity Home Class):		
Half Unit	4	--
Unit	8	--
2 Units	14	--
Number of children for each unit above 2	14	--
Homebound Instruction (Pregnant Students, Orthopedically Handicapped, Other Health Impaired)		
Unit	6[1]	--
EMOTIONALLY DISTURBED		
Half Unit (Elementary - Special half-day class)	4	--
Half Unit (Secondary - Special half-day class)	6	--
Unit (Elementary - Special Class)	6	--
Unit (Secondary - Special Class)	10	--
2 Units (Elementary - Special Class)	12	--
2 Units (Secondary - Special Class)	20	--
Number of children for each unit above 2 - Elementary	6	--
Number of children for each unit above 2 - Secondary	14	--
Half Unit (half-day Hospital Class)	6	--
Unit (Hospital Class)	10	--
2 Units (Hospital Class)	20	--
Number of children for each unit above 2 (Hospital Class)	14	--
Half Unit (Community Center)	6	--
Unit (Community Center)	10	--
2 Units (Community Center)	20	--
Number of children for each unit above 2 (Community Center)	14	--
Homebound Instruction (caseload)	6[1]	--

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[1] For smaller numbers of children, unit funding is prorated.

Vocational rehabilitation services as authorized in the State Vocational Rehabilitation Plan are available to all handicapped pupils 16 years of age and older, who because of their disability have an employment handicap.

Services offered by vocational rehabilitation through the cooperative work-study program are:

a. **A designated day** by the vocational rehabilitation counselor for counseling and guidance services.
b. Training fees, tools, and equipment if required.
c. Psychological services when not available through the public schools.
d. Psychiatric evaluations if needed.
e. Medical evaluations and physical restoration services if not provided through other sources.
f. Parent counseling and guidance by the vocational rehabilitation counselor.

School districts not part of the cooperative work-study program should refer eligible students to a vocational rehabilitation counselor of the Texas Rehabilitation Commission serving the area. **(R)**

Regional education service centers which provide any special education service or conduct any special education program or project, shall develop and submit a plan for service, program, or project to the Division of Special Education for review and approval.

The purpose of comprehensive special education programs for auditorially handicapped children is to provide services and programmatic considerations of speech reading, communication, and conservation of residual hearing so that these children may develop skills necessary to attain academic achievement. **(R)**

The purpose of comprehensive special education programs for language and/or learning disabled children is to provide programmatic modifications for children who have identifiable deficits in the processes related to organizing and integrating the information necessary for academic success.

The purpose of comprehensive special education programs for speech handicapped children is to provide appraisal of each child's speech, oral language, and/or mild hearing disorder and to develop a program of correction to meet the child's individual needs. **(R)**

"The Texas Central Education Agency is authorized to establish a local maintenance account for the Texas school for the Deaf Independent School District. S.B. 393, Acts 52nd Leg., 1951, Ch. 175, p. 296; Acts. 2666, 2667, and 2927, V.C.S. Funds in this account may be expended for recreational activities, maintenance of wearing apparel, and similar services deemed necessary to the proper conduct of the school. Art. 2827, V.C.S."
(Op (Op. Att'y. Gen., May 7,
(Op. Att'y. Gen., August 27, 1951)

"The Board for Texas State Hospitals and Special Schools may legally accept, educate and instruct in Austin State School feeble-minded children, as defined in Article 3233, V.C.S., without their having been committed by a county court, subject to applicable laws concerning their admission. Art. 3235, V.C.S. At the Board's discretion, such admitted children may be permitted to return to their homes each day after classes. Art. 3236, V.C.S." **(Op. Att'y. Gen., May 7, 1952)**

PRIVATE

Under regulations of the state board, districts may contract with nonprofit, public or private community mental health and/or retardation centers or any other approved nonprofit organization, institution or agency to provide services for exceptional children. **(TEC Sec. 16.16)(L)**

Mentally retarded, deaf, physically handicapped, emotionally disturbed children, children with language and/or learning disabilities and pregnant girls are eligible for placement.

Deaf pupils must be eligible for admission to the state school for the deaf and have no other state-supported program provided or available.

Other children must reside with their parents on a day-to-day basis and have been provided with no appropriate program in their school district. Contracting is described as an element in the district's five-year plan for special education. **(R)**

The parent of a deaf child must request the contracting services. **(R)**

The state pays the entire cost of the program for a deaf child, but not exceeding the average cost per pupil in county-wide day schools for the deaf, from foundation program funds. **(R)**

For other disabilities the state reimburses school districts for the average cost per pupil cost of the preceding year for the specific type of special education services in the school district. **(R)**

The child's parent or guardian must be charged no additional tuition. **(R)**

Law implies that either in-state or out-of-state placements are authorized if the school has state board approval. **(R)**

Placements may be made only in nonprofit schools which have operated for at least two years. Before approval, all facilities must undergo a site visit by a professional team from the state education agency. Application for approval must be made by November 1. After the site visit, the school, if passed, is approved for one to three years. Institutions not approved may reapply next year if necessary improvements are made, or they may appeal to the division of school accreditation. **(R)**

Approved schools must annually report to the division of school accreditation. An approved school not contracting for two successive years will be dropped from the approved lists. **(R)**

Institutions not approved may reapply for the next year if sufficient improvements have been made to warrant the application, or they may appeal the recommendation of non-approval through established procedures of the Division of School Accreditation. **(R)**

Private schools for the deaf must be nonprofit and nonsectarian and must meet standards of education and training, and have buildings and equipment and facilities equal to those provided by the state school for the deaf. They must have been operated successfully for two or more years. **(R)**

The school district is responsible for maintaining a pupil eligibility file, for verifying pupil attendance, for negotiating the contract and maintaining fiscal records. Contracts must be negotiated for each pupil by October 15 of each year. The school district must assure that state monies paid to it for contract pupils are used for no other purpose and return any excess to the state education agency. The district must also assure that eligible contract pupils are considered for a special transportation allotment. **(R)**

Approved non-public schools for exceptional children are categorized in two basic groups:

Mental Health and/or Mental Retardation Facilities.

Mental health and/or mental retardation facilities include institutions, programs, or centers under the jurisdiction (direct or indirect) of the Texas Department of Mental Health and Mental Retardation. **(Article 5547-201, Senate Bill 465, 61st Legislature) (L)**

Approved non-public schools for exceptional children must meet the standards as set forth in the *Principles and Standards for Accrediting Institutional and Special Schools*.

Private, nonprofit facilities must have been in operation for at least two years and hold a nonprofit corporation charter issued by the State of Texas at least for the same period of time.

Approved schools will make an annual report to the Division of School Accreditation as prescribed by that Division.

An approved school which does not contract for two successive years will be dropped from the approved list.

During the 180 days of contracted service any non-public school that charges tuition, mails out statements requesting payment, or charges parents any sums of money for educational services contracted regardless of the terms used to describe services for which payment is charged, except for routine supply items, will be subject to immediate removal from the list of approved schools.

Non-public schools reporting the operation of programs beyond the required 180 days of instruction may determine an equitable means of assessing fees for programs without penalty. **(R)**

Any accredited local school district may contract for any eligible handicapped pupil under the following conditions:

1. the child resides with his parent or guardian on a day-to-day basis,
2. the parent or guardian of an exceptional child, for whom the local school district has contracted, will be charged no additional tuition,
3. the school district does not have an approved special education program in operation for the type of handicap contracted or the program does not meet the needs of the individual pupil for whom the contract is made,
4. the school district has described contracting with non-public schools as an element in their Five-Year Comprehensive Planning Document for Special Education,
5. Contracts are negotiated on an individual pupil basis and must be completed on or before the date determined by the Assistant Commissioner of Special Education and Special Schools as the date for verification of pupils for contracting with non-public schools,
6. contracts on pupils who move during the year should be adjusted if contract pupils move during the year and other pupils are found eligible for and need contract service, the new pupils may then be substituted,
7. assuring that state monies paid local school districts for contract pupils are used for no other purpose. The district will keep revenue and expenditure accounts for these monies. If, at the end of the school year, the revenues exceed the expenditures, the excess will be returned to the Texas Education Agency.

8. assuring that allocations for contract services are granted on the basis of individual pupils. School districts receive contract funds through regular Foundation School Program payments and must make payments to non-public schools on a regular basis,
9. assuring that eligible contract pupils are considered for a special transportation allotment, and
10. the school district has the same responsibility for pupils served under contract as for those served by their special education programs. **(R)**

The local school district will be reimbursed an amount equivalent to the average per pupil cost as determined by the Division of Finance for the preceding year for the specific type of special education services. **(R)**

"Vocational Rehabilitation Division of Texas Education Agency can pay tuition for handicapped individuals to attend denominational schools as a vocational rehabilitation service." **(Op. Att'y. Gen., July 8, 1966)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Teachers of Exceptional Children (Certificate No. 7)

bachelor's degree general education (60), elementary education (12), student teaching (6), specialication (varies)

Eligibility for Teachers of Exceptional Children, Professional

30 hours above bachelor's degree in approved program

FACILITIES

Statutes contain no specific provision for the handicapped in this area.

STATE PROFILE

UTAH

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The legislature shall provide for the establishment and maintenance of a uniform system of public schools which shall be open to all children of the state, and be free from sectarian control." **(Art. X, Sec. 1, Utah Const.) (L)**

Compulsory Attendance Law: All children between the ages of six and 18 must attend public or regular private school during the established school year unless the child is of such physical or mental condition, as certified by competent physicians, to render attendance inexpedient or impractical. **(UCA 53-24-1) (L)**

Children holding valid exemption certificates issued by a local school superintendent are exempt from attending any school. The certificate exemption ceases to be valid at the end of the school year in which it is issued. The child may obtain this certificate of exemption only after an evaluation process conducted by an evaluation team established for that purpose by the district board of education. A certificate may only be issued if the evaluation team determines that the handicapped child is unstable to the extent he constitutes a potential hazard to the safety of himself or to others. A majority of the members of the evaluation team shall not be employees of the school district and must include at least three persons, including a division of health evaluation services representative, a qualified person designated by the local superintendent, and a person skilled in the area of the handicap of the child being evaluated. A certificate of exemption is subject to review by a three-member panel appointed by the state director of special education upon the filing of a written protest by a parent or guardian within 30 days after the certificate is issued. **(UCA 53-18-6) (L)**

All parents, guardians, or other persons in control of any deaf or blind child between the ages of six and 18 who is unable to be educated in a public school because of his handicap, must send the child to the school for the deaf or the school for the blind at least nine months of the year. In cases where it appears to the satisfaction of the board that the child is taught at home by a competent teacher with the same curriculum and for the same length of time as children are required by law to be taught at the state school, the child has already acquired proficiency in the curriculum of the state school, or the child is in a physical or mental condition (certified by a competnent physician) that renders such attendance inexpedient or impractical, the child is exempted from the requirements. **(UCA 64-3-20) (L)**

Responsibilities: The state board of education shall provide proper education and training for all handicapped children unless a child has a valid certificate of exemption. **(UCA 53-18-2) (L)**

If it is not possible to provide special education for handicapped children in the public schools of the district, or in conjunction with another district, the board of education of the district shall secure this education and training outside of the public schools or provide for the teaching of handicapped children in their homes. **(UCA 53-18-2) (L)**

In *Wolf v. State Legislature of Utah*, plaintiffs are two trainable mentally retarded children and the state legislature is the defendant. It was alleged that children were not being provided with a suitable education and this was sought by the suit. A court ruling on January 8, 1969, guaranteed the right to an education at public expense to all children in the state. (lawsuit)

POPULATION

Definitions: Handicapped children are those children with "physical or mental handicaps." **(L)**

"'Deaf and hard of hearing' students are those having hearing impairments which prevent them from developing potentialities in regular or hard of hearing program, but are otherwise, generally mentally and physically adequate."

"'Hard of hearing children' have a hearing loss not severe enough to require program for the deaf, but need the additional help of an itinerant or resource teacher to help them succeed in a regular classroom. Otherwise, they are generally physically and mentally adequate." **(R)**

"'Speech and hearing handicapped children' are those whose speech or hearing is so far below standard or departs so far from acceptable normal hearing or normal speech that it calls undesirable attention to itself or impedes educational efficiency." **(R)**

"'Learning disabled children' are those who are seriously academically retarded below mental age and the norm for their grade placement in reading and/or other fundamental academic processes, but who are otherwise generally mentally and physically adequate." **(R)**

Age of Eligibility: Children may receive services from age five to 21. Local districts may provide programs out of their own funds to children below five and above 21. **(UCA 53-18-1) (L)**

Remedial classes set up for children categorized as slow learners are reimbursable under Section 53-7-21(3), Utah Code Annotated, 1953. The children must be examined and categorized as slow learners in order for them to be considered handicapped, entitling the school to receive reimbursement **(Op. Att'y. Gen., July, 1965)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: In accordance with the rules of the superintendent, the clerk of the board of education, school enumerators and attendance officers in every district are responsible for securing information and reporting to the state superintendent of public instruction by November 15 of each year and, thereafter as cases arise, regarding every handicapped child within the school district of preschool age, school age and post school age who, because of apparent physical or mental condition, is not being properly educated and trained. As soon thereafter as possible, the child will be examined by a person certified by the district superintendent or the state board as a public school psychologist or psychological examiner. A report will be made to the superintendent concerning the child's special educational and training needs. These children and all persons presently being educated and trained in existing "day care centers for the handicapped" are referred to as handicapped children. **(UCA 53-18-1)(L)**

Screening: During the first month of each school year, every teacher must test the sight and hearing of all children under their jurisdiction. Parents must be notified of any defects and have explained to them the necessity for medical attention. A licensed physician may be hired by the board of education to perform these tests.

Assessment and Placement: Admission to special education programs is to be by decision of a committee consisting of appropriate school personnel, and is to be on a continuing trial basis.

Approval for admission is to be given only after reports of pyshcological and physical examinations and other appropriate reports by professional personnel are made available to the admissions committee.

The state division of health will provide the diagnostic and evaluation services typically not provided in school districts to determine appropriate methods of assisting handicapped children and preparing them for adequate placement and adjustment. **(UCA 53-18-7)(L)**

Handicapped children who hold valid certificates of exemption which have been issued by the local district superintendent shall be exempt from attending any school. A certificate of exemption shall cease to be valid at the end of the school year in which it is issued. Certificates of exemption must result from an evaluation process conducted by an evaluation team established for that purpose by the district board of education. A certificate of exemption may be issued to a handicapped child only if the evaluation team determines that he is unstable to the extent he constitutes a potential hazard to the safety of himself or to others. A majority of the members of the evaluation team must not be employees of the school district. The evaluation team shall include at least three persons and shall include a division of health evaluation service representative, a qualified person designated by the local district superintendent, and a third qualified person skilled in the area of the handicap of the child being evaluated. The certificate of exemption is subject to review by a three man panel appointed for that purpose by the state director of special education upon the filing of written protest by the parent or guardian within thirty days after the exemption certificate is issued.

ADMINISTRATIVE RESPONSIBILITY

The state superintendent of public instruction will oversee the organization of special programs and any other arrangements for special education and will be responsible for enforcing the provisions of the special education act. **(UCA 53-18-4)(L)**

The state director, appointed by the state board, should be a specially qualified and experienced director responsible for coordinating all state programs for handicapped children of preschool or school age. He shall be responsible for the general supervision of all programs for the handicapped in the various school districts and all public agencies and institutions concerned with the training of the handicapped. The director will encourage and assist in organizing programs for handicapped children under the immediate administration of district boards of education or of existing state educational institutions. The director will work in cooperation with private agencies concerned with the training of handicapped children. **(UCA 53-18-2)(L)**

The state director will submit plans to the state board for establishing and maintaining supervision for the proper education and training for all handicapped children. It shall be the duty of the board of education of all school districts to provide and maintain the funds of the district or jointly maintain with neighboring districts from the funds of each of the school districts an appropriate program of special education instruction and facilities and related services for all handicapped children. The state board will adopt standards and regulations relating to the diagnosis and evaluation of handicapped children, special instruction, classes, services and other appropriate guidelines to be followed by local school districts. **(UCA 53-18-2)(L)**

The Utah School for the Deaf will be under the administration of the state board of education. **(UCA 64-3-4)(L)**

The state board of education must provide proper care and training for all handicapped children in the state, except those who have been issued valid certificates of exemption. (See **Identification and Placement)** **(HB No. 105, 1969)(L)**

PLANNING

An advisory committee appointed by the governor consisting of one representative each from the state board of education, state division of health, state division of welfare, a state institution of higher learning for teacher training, a state Senate, and state House, as well as three citizen members of a national or state association interested in the handicapped will study the needs and recommend programs for handicapped children to the state board, state division of health, and state division of welfare. **(L)**

FINANCE

School districts maintaining special classes in the public schools, or special public schools, or providing special education for handicapped children as herein specified, shall receive reimbursement from the state board of education, so long as such classes, or such special education is approved by the state board of education as to location, constitution, and sizes of classes, conditions of admission and discharge of pupils, equipment, courses of study, methods of instruction and qualifications of personnel, and in accordance with other regulations and standards promulgated by the state board of education from time to time. The cost of such education and training of handicapped children below the age of five and above age 21 shall be paid from fees and contributions of parents or guardians or friends of the handicapped children served. To further the purposes of this program, school districts may receive contributions of money, property and services. There is hereby appropriated from the uniform school fund not to exceed 80 distribution units for fiscal year 1970 and an additional growth factor of not more than 5% each fiscal year thereafter for support of programs for the education and training of handicapped children, qualifying for service in "day care centers for the handicapped." These programs will be administered by the state board of education.

The state shall contribute to each district toward the cost of the basic state-supported school program in such district that portion which exceeds the proceeds of a minimum basic tax levy of 28 mills imposed by the district. **(I.)**

In addition, the state board may, upon application by a district board of education by **June 1**, allow additional weighted pupil units for the direct cost of programs for handicapped children conducted in accordance with definitions, guidelines, and standards promulgated by the state board of education, including programs conducted by the local school district board of education for the Utah state training school, Utah state hospital and Utah state industrial school. Units allocated to state institutions may be utilized to finance educational programs during the summer months at the rate of one-third unit for each unit allocated for program during the regular school year. **(I.)**

The amount of money for each additional weighted pupil unit is determined by means of a formula which differs according to the types of handicaps of the children served. No school district shall receive less than 76% (amount allowed for direct costs of educational programs) of its total funds allocated for handicapped children for the 1972-73 fiscal year. **(I.)**

In order that funds will be used most appropriately, the state board of education shall set standards and guidelines including the roles and function of those employed in pupil personnel services.

To avoid penalizing a district financially through consolidation of its special schools, additional units may be allowed a district each year, not to exceed two years, equal to the difference between what the district receives for a consolidated school and what it would have received for the small schools had they not been consolidated. Money allocated to districts under this program may be used for maintenance and operation of school programs or for construction or remodeling or furnishing of school buildings, at the discretion of the local board of education, upon approval by the state board of education.

The state aid allocation for transportation is increased according to a formula for school districts transporting handicapped children. The formela varies according to the type of handicaps of the children served. **(I.)**

Additional amounts have been allocated for experimental programs and for the construction of instructional materials centers. **(I.)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Services may be purchased from other districts and public agencies by school districts unable to serve some handicapped children. **(R)**

The State Board of Education may use part of the money allocated for the training and education of handicapped children in day care centers to pay the cost incurred by the state superintendent's office for supervision and administration. **(Op. Att'y. Gen., May 5, 1969)**

SERVICES

All personnel teaching the handicapped will either be certified teachers or have met existing qualification as instructional assistants, as established by the state board. Persons qualified by the division of welfare for instruction and training in day care centers for the handicapped are given five years (from 1969) in order to qualify under state board of education regulations. **(CA 15-18-2)(I.)**

Class Size

	NUMBER OF PUPILS Minimum	 Maximum
LEARNING DISABLED	10	24
DEAF	6	12
HARD OF HEARING	10	20
EDUCABLE MENTALLY HANDICAPPED		
Special Class	8	15
TRAINABLE MENTALLY HANDICAPPED		
Special Class	8	12[1]
PHYSICALLY HANDICAPPED		
Special Class (Motor Handicapped)	8	12[2]
Home or Hospital Instruction (caseload)	8	12
EMOTIONALLY DISTURBED		
Special Class	6	10
VISUALLY HANDICAPPED		
Itinerant Teacher (Partially Seeing) (class size)	10	20
Itinerant Teacher (Partially Seeing) (caseload)	10	20
BLIND		
Special Class	6	12[2]

[1] Aides may be employed as deemed necessary.

[2] Maximum enrollment may be exceeded only by permission of the state board of education.

The caseload of a speech and hearing therapist should be not fewer than 20 nor more than 100 pupils at any one time. **(R)**

Recommended average class enrollment figures are used as a guide for approving units. Latitude is provided as to minimum and maximum class enrollment. Population limitations in smaller districts and situations in larger districts such as travel distance, availability of classroom, special groupings, etc., may cause some classes to be formed at minimum enrollments. However, if a district with a number of special classes in a particular category, such as educable, falls below the recommended average class enrollment figure, this is subject to explanation at unit approval time.

PRIVATE

Each school district is responsible for providing an education for all children, ages five to 21, residing within the district. **(L)**

If it is not possible to provide special education for handicapped children in the public school in the district, or in conjunction with another school district, the board of education of the district shall, except as herein otherwise provided, secure such education and training outside of the public schools of the district or provide for teaching the handicapped children in their homes in accordance with rules and regulations prescribed by the state board of education. **(L)**

All personnel employed to teach such children shall be either certified teachers or shall have met existing qualifications as determined for aides and instructional assistants, established by the state board of education. **(R)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Basic Professional Certificate – Elementary (Certificate No. 2)

bachelor's degree 54% total credits in teaching field and 20% in professional education including student teaching

Secondary (Certificate No. 3)

bachelor's degree with 34% in teaching major and 17% in professional education including student teaching

Eligibility for Elementary and Secondary Professional (Certificate No. 4)

hold or qualify for Certificate No. 2 or No. 3; completion of fifth year of approved program (master's degree or 36 2/3 hours, 24% or 8 hours each in subject matter and professional education area)

FACILITIES

All buildings and facilities used by the public which are constructed in whole or in part by the use of state, county, or municipal or other public funds must conform to standards for the removal of architectural barriers to the aged and handicapped.

Remodeling or alteration of any existing building or facility as described above must adhere to these standards and specifications. If 50% or more of the space of the building or facility is being remodeled, the entire building or facility must be brought into compliance with the standards and specifications provided.

STATE PROFILE

VERMONT

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

ought to be maintained in each town, for the convenient instruction of youth, and one or more grammar schools to be incorporated and properly supported, in each county of state." (Ch. 2, Sec. 64, Vt. Const.) (L)

Compulsory Attendance Law: All persons having control of a child between the ages of seven and 16 must have the child attend the public schools continuously for the full number of days for which the school is held, unless the child is physically or mentally unable to attend or is otherwise being furnished with an equivalent education. **(VSA 1121) (L)**

If a person having control of the child notifies the district superintendent of schools that the child is physically or mentally unable to attend school, or if the superintendent has reason to believe that this is untrue, he shall investigate and request the town health officer or a competent physician to examine the child. If there is a medical inspector in the district in which a town school is located, the superintendent will request the inspector to examine the child. The officer, physician, or inspector will examine the child and make a report of his condition to the superintendent. The superintendent shall, if the child is found mentally or physically unable to attend school, notify the teacher of the school and the truant officer of the town of the fact. The expense of the examination will be paid from the school funds out of the school district or the town district. **(VSA 1124) (L)**

Policy: "It is hereby declared to be the policy of the state to provide equal educational opportunities to all children in Vermont. The purpose of this chapter is to enable the state department of education to provide the special educational facilities and instruction which are necessary to meet the needs of handicapped children." **(VSA 2941) (L)**

Responsibilities: Within the limits of available funds and personnel the commissioner shall provide for essential early education and special education for handicapped children in designated schools and public programs. He may provide private programs for these children and for the temporarily and permanently homebound or hospitalized when other arrangements are not reasonably available in regular schools or a private institution will best serve their interests. **(VSA 2944) (L)**

POPULATION

Definitions: "'Handicapped child' means any child inhabitant of the state under 21 years of age, whose educational needs cannot be adequately provided for through the usual facilities and services through the public schools, school districts, or state institutions because of physical or mental deviations of such child." **(VSA 2942) (L)**

"Orthopedically handicapped children have a variety of physically handicapping conditions resulting from many causes. They may require physical and speech therapy and adjustments in the school program." **(R)**

"Learning disabled children under this program refers to a special learning disability, a disorder in one or more the processes of perception, integration and expression in either verbal or nonverbal language, and which needs special educational techniques for its remediation."

Certain children have special learning disabilities which result from minimal brain injury or damage, a developmental lag of cerebral nervous system, or many other unknown causes. Meeting their special educational needs may require a variety of educational techniques. **(R)**

A hearing handicapped child is one "whose hearing loss generally approaches an average of 60 to 65 decibels across the speech range in the better ear and who is unable to develop language successfully without special education, or the hard of hearing pupil whose hearing is functional with or without a hearing aid but whose loss causes a language deficit or learning difficulty making it impossible to fully use the regular school experiences without special services."

A pupil with a hearing loss who also qualifies under another handicapping condition is a hearing handicapped pupil with a multiple learning disability. **(R)**

A speech handicapped child is one "who has a speech pattern which deviates from the average so far as to draw unfavorable attention to him, whether through unpleasant sound, inappropriateness to the age level, or lack of intelligibility." **(R)**

"An individual of legal age for such school operated programs is eligible for language and/or speech therapy if his language and/or speech pattern interferes with his ability to form, express, and/or receive concepts, interferes with oral expression, inhibits academic, social, or emotional growth, or draws unfavorable attention to the individual. There may be a single or multiple causes of the problem, however, it is the existing problem rather than the cause which will determine eligibility for the program." **(R)**

Age of Eligibility: Children are eligible for special services from birth through age 21. **(L)**

Assessment and Placement If a parent or guardian of a handicapped child alleges that his child is not receiving the services to which he is entitled or has been improperly classified as a handicapped child and is thus prejudiced in the character and quantity of the educational or related services, he may petition the state board for correction of the alleged erroneous action or any other appropriate remedial action. If the state board finds the allegation has merit, it shall issue an order directing the district or the commissioner or both to take necessary action. **(VSA 2944) (L)**

The state board is responsible for adopting rules and regulations to implement this chapter including admission standards, requirements for program and continued placement of children in these programs. **(VSA 2944) (L)**

Any school district may singly or jointly, by contract, establish a professional team to evaluate handicapped children. The team may consist of a school psychologist and any other necessary persons with pertinent and professionally qualified skills considered appropriate by the district superintendent. **(VSA 2954) (L)**

Any district either singly or jointly with another district may establish a professional team to diagnose and educate children of adequate mental ability with a learning disability of a perceptual, conceptual, or coordinative nature or related behavior problems. The team may consist of a school psychologist and any other person with pertinent and professionally qualified skills as the district superintendent considers appropriate. **(VSA 2944a) (L)**

Pupils accepted as participants in the special learning disabilities program should have a special learning disability which is not primarily due to a sensory or motor handicap, mental retardation, emotional disturbance, or environmental disadvantage. Children who have sensory or motor or emotional handicaps may also have special learning disabilities. In that case, a child is to be considered multiply handicapped. Placement in programs for his multiply handicapping condition should be on the basis of the primary educational need in that program which most effectively meets his combination of special educational need.

A child in the special learning disabilities program must also exhibit a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language. This may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic; and the child should generally demonstrate a significant discrepancy between potential abilities and actual achievement. Children's mental ages vary greatly within an age group. Learning disabilities appear in the slow learner, the average child, and the gifted child.

The learning disabilities program is not designed to serve the pupil who is out of step with his age group because of either slow or accelerated achievement which is appropriate to his mental age. Therefore, it should be noted that the slow learner is not necessarily a learning-disabled child. A discrepancy of two years, between the child's expected ability and his performance in some essential learning process is considered to be a learning disability. The child's general learning ability should fall above the definition of mental retardation. If he does fall within the definition of mental retardation and has special learning disabilities, he shall be placed in a program for the multiply handicapped. The child's deficits should, in the opinion of the team, be unable to be ameliorated through the usual adaptations expected of the teachers in a typical class. **(R)**

The purpose of assessment and diagnosis in this program is to design education experiences appropriate for the particular combination of learning disabilities in a child and, hopefully, to include planning for nonschool activities when warranted. In designing the educational prescription, the guidelines are as follows:

1. The team approach must be utilized for diagnosis, assessment, and educational prescription (the team will include a school administrator, teacher of the referred pupil, learning disabilities consultant from the local school system, consultants in psychology, a specialist in learning disabilities from clinics or hospitals, school nurse, school social worker, and others as appropriate;
2. Approved psychological and educational diagnostic and assessment procedures. The focus of the team members shall be the academic and social growth of the pupil;
3. The team shall recommend medical referral if, in its opinion, such referral is indicated; and
4. Appropriate members of the team shall observe the child in learning situations and report shall contain baseline data on initial skill status.

The educational appraisal must include data in the following areas of behavior and learning: measures of the child's general developmental and ability levels; measures of the child's school achievement. At least the following should be considered in relation to the child's overall developmental age in determining the areas of disability: ability to relate parts to a whole, ability to manage language communications functions in the areas of speech, reading, and writing, ability to coordinate various receptive and expressive modes, ability to generalize learning experiences beyond examples given to see principles and to transfer information to new situations, abstract reasoning and time sense or other difficulties in conceptualizing, ability in the arithmetic functions of computation, sequencing, and comprehension of mathematical symbols, and ability in memory areas.

Attention must be given in the assessment to the child's general behavior in relation to learning situations, particularly with reference to the child's expressed attitudes toward himself.

The assessment and prescription should give attention to the following when they are in evidence in the child's behavior, remembering that at some ages and at some mental ability levels, the following might be appropriate: (1) excess or deficiency of general motor activity; (2) difficulty in gross or fine motor coordination; (3) excess or deficiency of verbal activity or inappropriate or distorted verbal activity; (4) excessive concentration or lapses in attention or difficulty in initiating concentration; and (5) reactions atypical in terms of their intensity, appropriateness, or frequency. **(R)**

Eligibility and acceptance in the program for the physically handicapped must be based upon the recommendation of a team of specialists chosen for their training in the evaluation of this type of child. They include: a special educator, pediatrician, orthopedist, neurologist or psychiatrist, or a physician experienced in determining educational-medical disabilities, psychologist, child study specialist or social worker, speech therapist, audiologist, optometrist or opthalmologist.

To be eligible a pupil must be unable to profit from the usual instructional procedures of a school. The child must be crippled or have an identifiable health or central nervous system impairment. **(R)**

A hearing handicapped child must have a medical and audiological report stating the nature of the hearing loss, the possibility of improvement under medical care and recommendations concerning proper aids for maximum use of residual hearing.

A psychological examination may be required before an educational plan is made for certain children. A thorough educational evaluation of the child must be submitted to the division by local educational agency before placement.

The Austine School is the approved placement for deaf and severely handicapped children. Placement in other [illegible] with the headmaster of the Austine School and other

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priate specialists when they determine that it is in the best interest of the child. Such children will usually be multiply handicapped or have a mild loss requiring short term therapy and intensive speech training.

Placement of multiply handicapped deaf pupils in residential programs will be approved when no public educational facilities exist. **(R)**

At the initiation of a program, children in grades kindergarten through six in the participating districts shall be given a screening test designed to identify students with language and speech problems. Any student in grades seven through twelve may be referred by other school personnel, parents, or other appropriate persons or agencies. Each year thereafter screening may be restricted to kindergarten, new students, and referrals.

ADMINISTRATIVE RESPONSIBILITY

The commissioner of education shall be the "commissioner of education for handicapped children" and will supervise, direct, and manage the program for the education of the handicapped and have charge of their instruction and may accept gifts and other donations to carry out the state special education program of the state. **(VSA 2943) (L)**

The state board of education shall employ a qualified director to direct a division of special education and provide any necessary professional assistance. The director serves as the secretary of the advisory council. See Planning. **(VSA 2946) (L)**

With the advisory council's advice and in accordance with state board policies and regulations the director shall execute the policies and regulations and recommend to the board standards and provisions for approving special schools, facilities and equipment, and for qualifying teachers. **(VSA 2947) (L)**

PLANNING

The commissioner shall determine the size of the council and the period of service for members of an advisory council consisting of himself, the director of special education, other representatives from the department and agencies dealing with children who have special problems, and parents of these children. The commissioner serves as chairman of the council. The council meets at least annually at the call of the chairman and any other time at his call. **(L)**

The council may recommend general state policy for special education and will work to insure a cooperative special education program coordinating all available services. The council must cooperate with private agencies soliciting their advice in establishing special education program policy. **(L)**

Every two years the commissioner shall report to the general assembly regarding the education of handicapped children. The report must include a census, by school district, the extent to which the needs of handicapped children are being met, recommendations to fulfill the unmet needs of handicapped children and an account of expenditures for special education. **(L)**

FINANCE

For state aid purposes handicapped children will be counted in the same manner as nonhandicapped children. **(VSA 2948) (L)**

The commissioner, subject to the provisions of VSA 2944c may award a school district in addition to the state aid described above insofar as the cost of special education exceeds the average per pupil expenditure of the school district, a supplemental grant of 75 percent of the actual salaries and wages of special education personnel. No claims exceeding the school district's actual cost will be paid. If two or more districts employ special education personnel and there is no valid contract or agreement making one of the districts the claimant for all of the aid, each district is entitled to claim a proportionate share according to its actual assumption of salaries and wages of personnel. The commissioner will provide for the apportionment of funds in these cases.

The costs of "essential early education" provided by a school district or child care agency and approved by the commissioner will be paid by the commissioner for the reasonable costs of actual salaries and wages of teaching personnel for the initial three years of a newly established program. After the three year period, the commissioner will pay 75 percent of the actual costs of salaries and wages of teaching personnel.

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

If a handicapped child is not receiving the educational opportunities to which this law entitles him, the local superintendent must request the superintendent to provide educational opportunities provided under this law. **(L)**

With the attorney general's approval, the state board may enter into reciprocal agreement with boards of education in other states involving expenses in securing services of a specialist or other persons skilled in the education of handicapped children. **(L)**

It is the responsibility of each district or districts participating by joint agreements to hold parent conferences in compliance with department of education regulations. Further, approved reports shall be sent to parents and to the division of special education and pupil personnel services in February and June in the form approved by the division. **(R)**

A district providing either a total or partial special education program for a nonresident handicapped child must claim from the child's district of residence the actual costs not covered under state aid. **(R)**

Districts providing services to handicapped children who are wards of a state agency will claim from the appropriate agency the costs of special education above that reimbursed by state special education aid. **(R)**

It is the responsibility of each sending district to see that suitable transportation is supplied for each child needing such transportation. Need must be determined by the division of special education and pupil personnel services. **(R)**

If a handicapped child is receiving education or special education in a school operated by a state agency, the agency is the school district of residence for the child. All conditions of this chapter applying to school districts shall apply to the agency. The department of corrections is excluded from this provision. **(VSA 2948) (L)**

When a program is provided by the commissioner costs will initially be paid by the state board but the district of residence shall reimburse the state for all expenses not exceeding the average per pupil cost in the district for the preceding school year. For children receiving less than a full year of special education, the reimbursement is the average per pupil cost divided by the number of weeks in the school year and multiplied by the number of weeks during which the child was receiving special education. The amount due the state may be withheld from the state aid due the district in December. The expense of a child who is a ward of a state agency will be paid by the agency not exceeding average per pupil cost in the preceding school year. **(VSA 2944) (L)**

SERVICES

" 'Special education' [is] the provision of facilities, instruction, supervision, and other educational services needed by and not otherwise provided for exceptional children in the public schools and state institutions."

" 'Essential early education' [is] the education of handicapped children prior to legal school age for the early acquisition of fundamental skills." **(VSA 2942) (L)**

Through a separate appropriation, the department shall diagnose and educate children with adequate mental ability who have learning disabilities of a perceptual, conceptual, or coordinative nature or related behavioral problems. **(VSA 2953) (L)**

Necessary transportation costs for attendance at special day or residential centers up to $100.00 per child per school year will be reimbursed. **(VSA 2951) (L)**

Need for special transportation is determined by the division of special educational and pupil personnel services. It is the responsibility of the child's district of residence to see that suitable transportation is supplied for each child needing such transportation. (R)

Class Size

	NUMBER OF PUPILS	
	Minimum	Maximum
LEARNING DISABLED		
Special Class (Elementary Level)	--	8[1]
Special Class (Elementary Level) (w/aide)	--	10[1]
Resource Room (caseload)	--	15
Small Group Instruction (caseload)	--	15
Small Group Instruction (Group Size)	--	2-3
Individual Instruction (caseload)	--	15
Junior and Senior High School Program	12	15[2]

Ration of teachers, psycho-educational program, planners, and aides to pupil enrollment should not exceed one staff member for each five pupils. A learning center using this staff ration will not be limited in number of pupils it may serve.

	Minimum	Maximum
AURALLY HANDICAPPED (Including Deaf)		
Special Class (Elementary) (Deaf)	--	8
EDUCABLE MENTALLY HANDICAPPED		
Special Class	12	15[2]
TRAINABLE MENTALLY HANDICAPPED		
Special Class	--	10
SPEECH HANDICAPPED		

Caseload -- The number of children seen regularly by one therapist is determined by the combined severity ratings must not exceed 60 units.

Children with speech defects classified S-MI according to the degree of involvement described must be counted as follows: children in S classification will be in the Division of Special Educational and Pupil Personnel Services who, with the speech correctionist, may refer the child to a specialist for diagnostic evaluation. Children rated 5 will be counted as 5 units in the caseload, children rated 4 are counted as 4 units, etc. Children in classification MS, MO, and MI are counted as one child when they are seen twice a week, and ½ child when seen on a once-a-week basis.

Certification of Caseload: Supervision, through certification of the caseload, shall be provided for those speech therapists who have not completed 30 hours in speech therapy and related courses and five years experience. The therapist, under the direction of the superintendent of schools, shall see that the caseload is certified by one of the following: the speech and hearing consultant, Department of Education; the University of Vermont Speech Therapy Program; and therapist holding a master's degree, full certification by the Department of Education and five years of experience.

Persons agreeing to certify caseload must determine that the caseload is within the competency of the therapist, advise on professional questions concerning the program outline, and determine that the program does not exceed the 100 units based on severity of speech problems.

	Minimum	Maximum
PHYSICALLY HANDICAPPED		
Special Class (Crippled and Other Health Impaired)	--	12
EMOTIONALLY DISTURBED		
Special Class	--	10[3]

[1] An aide is required for each self-contained class. In no event shall the daily pupil load be so heavy as to cause loss of effective teaching for each child. Age span may not exceed 4 years.

[2] A class size of 12 is recommended for early elementary level I educable programs and for programs having one or more children with multiple handicapping conditions.

The classroom teacher handles some speech problems in the language arts program. He/she is assisted by the speech pathologist, who diagnoses and plans programs for the speech impaired child. More severe problems become part of the pathologist's caseload. **(R)**

Children who are hearing handicapped must learn to communicate even though their auditory reception is impaired. A variety of programs are needed. Certain profoundly deaf children may need residential education; others may learn through a program of special education services. Whatever is required for the proper education of the hearing handicapped child must be provided. **(R)**

A deaf child should have a full program day of special education beginning at age four. Children whose hearing loss requires other educational therapy may be provided with services. **(R)**

Placement of multiply handicapped deaf pupils in residential programs will be approved when no public educational facilities exist. **(R)**

Supplementary services of tutoring, lip reading, and auditory training and language development for acoustically handicapped children may be a part of a program. **(R)**

An elementary program shall include the necessary curriculum in language training for the child's level of accomplishment and shall also include provision for basic instructional areas of reading, arithmetic, written communication and social living skills. **(R)**

Each program for the learning disabled shall be funded through a local educational agency and shall contain certain essential characteristics in order to be approvable. These characteristics include: the assessment of pupil's special learning disabilities and abilities; a team approach to diagnosis and evaluation; program planning based on the assessment of the child's abilities; coordination of state and community services available to the child; and a continuing prescriptive education for a child based on diagnostic procedures and findings, and a clear statement of administrative responsibility, as well as a design for evaluation. **(R)**

The purpose of this program is to initiate, expand, and improve comprehensive services for children with special learning disabilities as an integral part of the total educational program in the school districts. The program should be planned to involve the coordinated use of all resources from other programs and agencies in the special education program. (R)

It shall be the policy of the department of education to maintain generally accepted professional standards for special learning disabilities programs and at the same time to consider for funding innovative programs, which can be fully justified by sound educational practice, learning theory, and child development principles. **(R)**

The language and speech pathologists will provide direct clinical services for eligible students which will result in the following:

1. articulation up to mental age expectations;
2. language up to mental age expectations;
3. voice to acceptable levels; and
4. rhythm to acceptable levels. **(R)**

A child will be eligible for the program of speech and hearing therapy for mentally handicapped students if he has disorders in one or more of the following areas: receptive or expressive language, articulation, voice, or rhythm.

The following criteria are used in selecting children to participate:

1. language disorders: performance below mental age expectations determined through pathologist's judgment and generally accepted language tests (NSST, Utah, Detroit, Houston);
2. articulation disorders: performance below mental age expectations determined through use of generally accepted tests (Templin-Darley, Goldman-Fristoe);
3. voice disorders: pathologist's evaluation of observed verbal behavior; and
4. rhythm: pathologist's evaluation of observed rhythm patterns. Diagnosis and therapy for voice and rhythm disorders are especially dependent upon the pathologist's trained ear. There are no "paper and pencil" tests per se. A frame of reference is essential, and other physical and psychological factors must be considered in making the diagnosis and planning and conducting therapy.

All eligible students in the administrative unit will be served.

Available classroom and other suitable space will be utilized. Equipment and materials which will be utilized include diagnostic tests such as the Illinois Tests of Psycholinguistic Abilities, the NSST, Goldman-Fristoe Test of Articulation, Picture Articulation Test, and Templin-Darley Tests of Articulation. Materials and equipment used in the program include such items as tape recorders, language master type units, Wilson Initial Syntax Program, Goldman-Lynch Sounds and Symbols Development Kit, materials devised by the pathologist, and materials available within the classroom. **(R)**

PRIVATE

The commissioner may obtain services for handicapped children in private facilities. **(VSA 2944) (L)**

The educable mentally retarded, trainable mentally retarded, severely learning disabled, orthopedically handicapped, multiply handicapped, other health impaired, visually handicapped, hearing handicapped, emotionally disturbed, and pregnant are eligible for private placement. Pupils unable to profit from the instructional procedures of a public school are eligible for private placement. (L)

The local superintendent must sign a referral form and forward it to the division of special education. The state commissioner may obtain such services in private facilities. **(R)**

When a program is approved by the commissioner, initial costs will be paid by the state board, but the district of residence must reimburse the state for an amount equal to the district's per pupil expenditure for regular education. For children receiving less than a full year of special education, the reimbursement is the average per pupil cost divided by the number of weeks in the school year and multiplied by the number of weeks during the time the child was receiving special education. The expenses of a child who is a ward of a state agency are paid by the agency but not exceeding the average per pupil cost for the preceding school year.

Placements may be made both in and out of the state.

Policies and procedures are the same as for public schools. **(L)**

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Elementary Certificate (Certificate No. 8)

valid grades 1-8 - bachelor's degree in elementary education from institution approved by the state board of education with endorsement

High School Certificate (Certificate No. 10)

valid grades 9-12 - bachelor's degree from approved institution 18 hours in professional education plus major (24-30) with endorsement

Special Education Endorsement or Certificate

based on competencies

FACILITIES

To provide classroom space for handicapped pupils union school districts, town districts, incorporated districts or districts in joint contract or specified unions in joint contract when designated by the commissioner are eligible for state aid for construction, alteration or addition of classroom space from appropriated funds under section 3447-3456 of Title 16.

If the state board finds evidence of the need for such construction and the project meets their criteria as to type, kind, quality, size, use, and location and the estimate cost is suitable for the proposed curriculum and will most effectively serve the largest number of handicapped pupils, the board may award 75 percent of the cost for the construction, alteration, or addition.

If at any time the need for using these classrooms for special education purposes ceases, the state board may grant permission to the district for other use. **(VSA 3457) (L)**

Any school owned and operated by a town, incorporated or union high school district, or by a nonprofit corporation organized under state law for educational purposes, designated by the commissioner to provide instruction for retarded children is eligible for state aid for construction, additions, or alterations to buildings from funds under Title 16, Chapter 123, Sections 3447-3456. **(VSA 3457) (L)**

If the state board finds that there is an urgent need for the proposed building, addition, or alteration and the proposed type, kind, quality, size and estimated costs are suitable for the proposed curriculum and will serve the greatest number of retarded children, it may award up to 30 percent of the cost. To qualify for such aid, the state board shall require the district or corporation to enter into a contract with the state under required terms and conditions which may include provisions for reversion. **(VSA 3457) (L)**

Statute 18, V.S.A. 1305(a) prohibits the construction of any building by the state, a county or municipality which is not accessible and usable by the physically handicapped. This statute would also include "relocatable classrooms" (trailer type, protable classrooms). The statute does not expressly require the availability of a paraplegic toilet in the unit; it is up to the local boards of education to decide the "practicability" of the installation. However, "the fact that a school may not presently have a paraplegic student is not justification for not installing any facility which is otherwise practicable for relocatable classrooms or any other buildings."

The State Board of Education enforces Statute 18 V.S.A. 1305(a) with respect to school buildings.
(Op. Att'y. Gen., October 13, 1970)

STATE PROFILE

VIRGINIA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The general assembly shall provide and maintain an efficient system of public free schools for all children of school age throughout the Commonwealth and shall seek to insure that an educational program of high quality is established and continually maintained.

"The general assembly must approve standards of quality established by the state board. Once approved, the general assembly must provide for the cost of maintaining the program." **(Art. XIII, Sec. 129, Va. Const.) (L)**

Compulsory Attendance Law: Every parent, guardian, or other person having control or charge of any child between the ages of six and 17 shall send the child or children to a public school, or private, denominational, or parochial school or have the child taught in a home by a tutor with qualifications prescribed by the state board as approved by the division superintendent. Children will attend the school during the period of each year the public schools are in session. **(Sec. 22-275-1 Code of Va.) (L)**

Children physically or mentally incapacitated for school work or those children suffering from contagious or infectious diseases while suffering the disease are exempt from the compulsory attendance provisions. A certificate from a reputable practicing physician made in accordance with the rules and regulations of the state board of education is the determination for physical incapacity or disease, and mental incapacity is determined by mental tests prescribed by the state board of education. **(Sec. 22-275.3 Code of Va.) (L)**

Every blind or partially blind and every deaf child between the ages of seven and 16 will attend a school for the blind, school for the deaf, or public school class where special methods, special equipment, and instruction are provided for the blind or deaf for nine months during the school year unless it is shown that the child is elsewhere receiving equivalent instruction or a program of studies approved by the state board of education as usually taught in a public school. No child is exempted from the compulsory attendance requirement unless the superintendent or principal of any school for the blind or some public school or schools for the deaf or persons duly authorized by the superintendent or principals excuse cases of necessary absence among enrolled pupils. The provisions of this section shall not apply to a child whose physical or mental condition would render his instruction impractical. **(Sec. 22-275.5 Code of Va.) (L)**

Responsibilities: The board jointly and in cooperation with each school division has the responsibility for the education of all handicapped children. **(Sec. 22-9.1:02 Code of Va.) (L)**

The board of education must prepare and place in operation a program of special education to educate and train handicapped children between the ages of two and 21 and may prepare and place in operation a program for handicapped individuals of other ages. When developing the programs, the board shall assist and cooperate with local boards in the several school divisions. **(Sec. 22-9.1 Code of Va.) (L)**

State institutions having children in residence have the responsibility of providing education and training to the children in their custody at least comparable to that which would be provided to such children in the free public school system. The institutions may provide an education and training either directly with their own facilities and personnel in cooperation with the state board of education or under contract with a school district or any other public or private nonsectarian school, agency, or institution. **(Sec. 22-91:4 Code of Va.) (L)**

The Virginia Commission for the Visually Handicapped shall prepare and place in operation a program of special education services to meet the educational needs of visually impaired children between the ages of two and 21 and may prepare and place in operation programs for any individuals of other ages. In developing the program, the commission must cooperate with local school boards. When visually impaired children are enrolled in county or city school divisions, the local school authorities cooperating with the commission shall establish and maintain special programs for their education in the public schools. All such programs are operated jointly by the local board and commission **(Sec. 22.9 Code of Va.) (L)**

"Article 4 of Chapter 12, Title 22 of the Code -- 22-275.1 through 22-275.25 is not effective in any county, city or town unless the same is adopted by the local governing body pursuant to 22-275.25 of the Code." Thus, unless local districts have adopted the above compulsory attendance law, attendance is not required for handicapped students. Handicapped children in state institutions are in the same category as other children in the state.
(Op. Att'y. Gen., October 1, 1963)

Tidewater Society for Autistic Children v. Virginia is a class action suit on behalf of the state's autistic children. Defendants are the state of Virginia and its board of education. Plaintiffs allege discrimination because no suitable program exists for them due to insufficient funds. Plaintiffs seek declaration of their rights and immediate establishment of programs geared to each child's capacity. On September 7, 1972, the state submitted a motion to dismiss, and in December, the court dismissed the suit on the grounds that the Constitution does not guarantee a free public education. The court also cited 1972 Virginia legislation calling for mandatory surveying and planning for the education of handicapped children. The court assumed that statutes would be applied and this would be in compliance with equal protection under the 14th amendment. (lawsuit)

POPULATION

Definitions: " 'Handicapped children' includes those who are mentally retarded, physically handicapped, emotionally disturbed, learning disabled, speech impaired, hearing impaired, multiply handicapped or otherwise handicapped as defined by the board of education." **(Sec. 22-9.1:1 Code of Va.) (L)**

" 'A visually impaired child' shall mean a child whose vision after best correction limits his ability to profit from a normal or unmodified educational setting." **(Sec. 22 9 Code of Va.) (L)**

" 'Children with special learning disabilities' are those children who exhibit a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic. They include conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, developmental aphasia, etc. They do not include learning problems which are due primarily to visual, hearing, or motor handicaps, to mental retardation, emotional disturbance, or to environmental disadvantage." **(L)**

Speech handicapped children are "children who have abnormality of speech which calls adverse attention to itself or interferes with communications which may be related to problems with articulation, rhythm, voice, and/or oral language." **(L)**

"Children whose hearing loss (after all necessary medical treatment, surgery, and/or use of hearing aids) significantly restricts benefit from or participation in the normal classroom program and necessitates a modified instructional program" are considered hearing impaired. **(L)**

Age of Eligibility: Handicapped children shall receive services from age two to 21 and may at other ages. **(Sec. 22-9.1 and 22-9.1:1 Code of Va.) (L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: The department of health shall report to the department of education or any local school district the identity of any pertinent information about children with health problems or handicaps which would affect their school career and need for special education. This law does not prohibit any licensed physician from communicating the identity of any person under age 21 having a physical or mental handicap to appropriate agencies or any of its political subdivisions and other information regarding the person and condition which may be helpful to the agency to plan or conduct services for handicapped persons. **(Sec. 32-11.1 and 54.276.11 Code of Va.) (L)**

Every three years a census of all persons between the ages of six and 20 will be taken by the superintendent of public instruction. Persons of school age in orphanages and elementary institutions or living in any federal military or naval reservation or other federal property are included for the county or city within which the property is located. Persons of school age confined in "insane asylums", state or federal industrial schools, or prisons are included in the county or city that is the legal residence of the parent or guardian of the child or children. **(Sec. 22-223 Code of Va.) (L)**

Concurrently with this census, a separate census will be taken of deaf and blind persons between the ages of seven and 20 residing within the county or city and giving the sex, age, and residence of all children. A copy will be returned to the division superintendent. The division superintendent will consolidate the reports and transmit them to the superintendents of the schools for the deaf and the blind. **(Sec. 22-228 Code of Va.) (L)**

Screening: Governing bodies of all school districts may provide health and visual examinations to school children including those in special facilities for handicapped children. They may employ school nurses, physicians, therapists, and speech therapists for special classes for handicapped children. **(Sec. 22-241 Code of Va.) (L)**

Principals or teachers in school districts whose governing board has ordered it shall annually test the sight and hearing of all pupils under their charge keeping a record of the examination. If a child is found to have any defect of vision or hearing or disease of the eyes or ears, the principals or teacher shall notify the parent or guardian in writing. Copies of the report will be retained for the use of the superintendent of public instruction. **(Sec. 22-248 Code of Va.) (L)**

Identification and referral may be made by the parent or guardian, a physician, community agency, or school personnel.

Screening is the responsibility of the local school division. A screening committee may meet regularly to consider the appropriateness of the educational provisions being offered students referred to them as having learning or behavior problems. **(R)**

The screening committee may include the principal, a guidance counselor, classroom teacher or other professional school personnel, and one or more of the following: the special education supervisor, educational diagnostician, visiting teacher, or school nurse. **(R)**

Identification of students may be accomplished through: vision screening, hearing screening, speech screening, readiness testing, group mental ability testing, achievement testing, parent request, or teacher request or clinic referral. **(R)**

Prior to entrance in a public kindergarten or any public school program, all children must have a comprehensive physical examination according to standards of the state department of health. The examination must be conducted by a qualified, licensed physician who will report the conclusions and summarize any abnormal physical findings and/or any conditions that would identify the child as handicapped. A copy must be presented to the school on the child's behalf and placed in his health record folder and will be available for review by any employee or official of the state department of health or any health department at the request of the employee or official. The health department of all counties and cities will conduct these examinations for medically indigent children without charge upon request of a parent or guardian. This section does not apply to any child admitted to a public school before July 1, 1972. **(Sec. 22-220.1 Code of Va.) (L)**

Communities are required to review all census data to identify all handicapped children; contact the health department for referrals of individuals with handicapping conditions age 21 and below, seek the cooperation of private clinics, private physicians, and other private agencies in encouraging parents to refer their exceptional children for appropriate educational planning, seek referrals from nursery schools, private kindergartens, parochial schools, and other private schools; review cumulative records for significant data; screen teacher and other school personnel referrals based on anecdotal records indicating children with learning problems; and review reports of the school nurse, visiting teacher, and other specialists. **(R)**

Assessment and Placement Each school division operating a special education program must establish an appraisal process to include screening and referral; diagnosis, educational planning and reporting, and implementation of feed back and follow-up systems. The division must also have a policy concerning parent or guardian approval for: appraisal services, placement in special education services, release of relevant information from various diagnostic sources to the school for educational purposes, and use of public information by other schools and agencies.

The local school division should provide for a systematic means of follow-up for pupils who: no longer require special education services, have graduated, and have left the school before completion of the program for any reason. **(R)**

Children who are marginally identifiable may be placed in a diagnostic setting for a time not to exceed two months until appropriate assessment for instructional and/or behavioral programming can be accomplished. Such diagnostic setting may be a resource room or special classroom. During this time the child's behavior is observed and appropriate evaluations are performed. **(R)**

Recommendations for instruction and action are made by the diagnostic class teacher and the specialists evaluating the child and are submitted in report form to the placement committee. When the placement committee has placed the child, this report is also conveyed in writing and in conference to the child's special education teacher by the local supervisor and, if applicable, by the educational diagnosticians. **(R)**

Evaluation of the learning disabled is made by studying the:

1. written comprehensive assessment including educational, sociological, physiological, and psychological evaluations;
2. written report of comprehensive appraisal including levels of functioning significantly above and below his chronological age in the areas of written and oral language, memory, perception, and behavior (the areas of function below his chronological age are not directly attributable to sensory deficit);
3. written report of educational appraisal which will include assessment of abilities and disabilities and instructional and behavioral recommendations for teaching which describe strategies which will maximize learning; and
4. physician's report of general physical examinations. **(R)**

In evaluating the speech impaired, the following data is considered:

1. grade or program placement.
2. written report from a licensed and/or state board of education endorsed speech specialist giving the type of disorder and the degree of severity based on appropriate tests,
3. written plan for therapy for each individual pupil, and
4. a comprehensive appraisal to determine the appropriateness of the services for a speech handicapped pupil if he has not made satisfactory progress after two years of speech services. **(R)**

The hearing impaired are evaluated by studying the following:

1. otological examination and audiologist evaluation on the nature and extent of the child's hearing;
2. written report of educational appraisal which will include assessment of abilities and disabilities and instructional and behavioral recommendations for teaching which describe educational environment and specific methods and strategies which will maximize learning; and
3. physician's report of general physical examination. **(R)**

At least one placement committee must be appointed by the local superintendent of schools. This committee determines the eligibility of all children for original assignment, continued enrollment, and the termination of special education services. The placement committee must have at least three members knowledgeable in the characteristics and educational needs of handicapped children. It must be composed of such persons as the supervisor of special education, a school psychologist, a school doctor or nurse, a visiting teacher or school social worker, a school principal, a guidance counselor, and a special class teacher.

Assignment to special education programs for exceptional children must be based upon the placement committee's recommendation. A summary of the deliberations, findings, and recommendations of the placement committee must be maintained and include the names, positions, and signatures of the persons participating in each meeting. A report is made and included in each pupil's eligibility folder.

A local school division may establish policies to insure consistent application by both the screening and placement committees of eligibility standards for special education services.

Before a pupil is placed in a special education program, there must be pupil identification data which includes name, sex, and date of birth. There must be evidence of pupil's need for services and written reports on vision and learning screening tests.

School divisions must not assign national origin-minority group pupils (or linguistically different pupils) to special education classes on the basis of criteria which was developed solely upon the command of the English language.

Children are admitted to, and retained in, special education programs on a trial basis.

Each school division operating a special education program for exceptional children will have a policy concerning parent or guardian approval for placement in special education services. **(R)**

The placement committee must annually review the appropriateness of each child's continued assignment to special education services, as evidenced by progress or lack of it. If there is no objective evidence of pupil progress or adjustment, recommendation for reexamination to determine the appropriateness of special education placement must be made by the placement committee.

A reexamination of every child must be made every three years as long as the child is receiving special education services. **(R)**

PLANNING

Each school division must make a comprehensive survey of handicapped children's educational needs within its jurisdiction and prepare and submit to the board by July 1, 1973, a plan for the proper training and education of all handicapped children in accordance with state board rules and regulations. Each division shall thereafter submit an annual report indicating the extent to which the plan has been implemented and a plan for the following year. **(L)**

An overall advisory council on needs of handicapped children and adults consisting of 18 members appointed in the following manner: two members from the senate; three from the house of delegates; one each from the department of education, department of health, department of mental hygiene, commission for the visually handicapped, Medical College of Virginia, medical college of the University of Virginia, department of welfare and institutions, department of vocational rehabilitation, and five members-at-large appointed by the governor shall continuously study the handicapping problems of children and the various phases of programs for handicapped persons. They will recommend to the agencies represented on the council the council's recommendations. They also shall make and submit to the governor any reports and recommendations he deems necessary. **(L)**

A local advisory committee for exceptional children must be appointed to advise the school board. The members of this advisory committee, appointed by the school board, must represent the school division geographically and include representatives from community service organizations such as public health, mental health, social welfare, juvenile court; from parent organizations such as PTA, ARC, VACLD, and others; and from business and industry. The aforementioned serve as sources from which a division may draw committee personnel interested in and able to contribute to a program of special education. It is encouraged that a school board appoint a committee representative of a community both in composition and in size in relation to school population. This committee must coordinate its efforts with the local advisory committee on standards of quality. **(R)**

In addition, the superintendent of schools and/or the person assigned the responsibility for the division special education program shall serve as a representative on the committee of the local school division. Other staff personnel must serve as consultants for this committee. Divisions are encouraged to include teacher, principal and other administrative staff for this function. When regional planning is involved, the advisory committee should represent the region involved. The school board shall appoint the committee so that one-third of the membership will be re-appointed each year.

Under the direction of the superintendent and/or his representative, the functions of this committee shall include:

1. assisting in developing plans for identifying children who need special services;
2. cooperating and implementing survey procedure, with both the school and community facilities;
3. assisting in the formulation and development of long range plans that will provide services needed in the school division and the community under the direction of the division superintendent and/or his representatives.
4. assisting in the development of priorities and strategies for meeting the identified needs.
5. submitting reports on the committee's findings and recommendations for action, and
6. assisting in the dissemination and interpretation to the community of the committee's proposed recommendations, with plans for implementation. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The board of education shall adopt rules and regulations necessary to secure adequate education for handicapped individuals. When developing this program the board must cooperate with the commission for the visually handicapped. **(Sec. 22-9.1 Code of Va.) (L)**

The state board of education is authorized to prepare an education program for the handicapped. **(Sec. 22-9.1 Code of Va.) (L)**

FINANCE

The board shall supply from funds provided by law assistance to local school divisions approved special education and related services for handicapped children. The board must adopt rules and regulations governing the expenditure of these funds. Nothing in this law shall be construed to impose a restriction or prohibition on the use of any federal, state, or local funds made available under any federal, state or local appropriation or grant. **(Secs. 22-9.1:05 and 22-9.1:06 Code of Va.) (L)**

An amount not exceeding one-half of the annual salary of each physical director, physical therapist, occupational therapist, speech therapist, or attendance officer will be paid by the state board to the employing local school authorities. An amount not exceeding one-half the salary of each nurse or physician will be paid by the state board of health to the local school authorities. **(Sec. 22-242 Code of Va.) (L)**

The Virginia School for the Deaf may transfer some funds allotted for the building of a dormitory to the funds allotted for the building of a recreation building at the school. Not enough money was allotted by the state to complete either building. Section 46 of the Appropriation Act makes the transfer legal.

Op. Att'y Gen., (December 27, 1950)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Any school district may enter into an agreement with another school district or combination thereof to pay the tuition of providing educational programs for hearing impaired children.

The state board of education may reimburse local school boards up to 60 percent of the tuition in an amount not exceeding the actual cost of educating children. The state board may reimburse local district boards in operating a free school special education program for hearing impaired children, age two to five, 60 percent of the cost from the state funds which shall be appropriated for this purpose. (L)

SERVICES

" 'Special education' means classroom, home, hospital, institutional or other instruction to meet the needs of handicapped children, transportation, and corrective and supporting services required to assist handicapped children in taking advantage of, or responding to, educational programs and opportunities." **(Sec. 22-9.1:01 Code of Va.) (L)**

All children attending special education programs are entitled to transportation to and from class at public expense. If because of physical incapacity or mental retardation the child is unable to use existing transportation facilities or, if facilities are unavailable, the school board may, in lieu thereof, allot funds to assist in paying the cost of the means of transportation. The cost cannot exceed an amount approved by the state board taking into consideration the cost of transporting pupils in the public schools. Forty percent of the cost will be paid by the school district in which the child resides, and 60 percent by the state, subject to available funds. **(Sec. 22-9.2:1 Code of Va.) (L)**

Class Size:

	NUMBER OF PUPILS	
	Minimum	**Maximum**
EDUCABLE MENTALLY HANDICAPPED		
Special Class	--	16
TRAINABLE MENTALLY HANDICAPPED		
Special Class	--	12[3]
PHYSICALLY HANDICAPPED		
Severely Handicapped - Special Class	--	4-6
Special Class	--	16
EMOTIONALLY DISTURBED		
Special Class	--	8
VISUALLY HANDICAPPED		
Special Class - Blind or Partially Blind	6	--
BLIND		
Special Class - Blind and/or Partially Blind	6	--
AURALLY HANDICAPPED		
Special Class - Preschool Level	4	7
Special Class - Primary Level	4[1]	7
Special Class - Intermediate Level	4[1]	7
Special Class - Secondary Level (Jr. and Sr. High)	5[1]	8[2]

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[1] No minimum if these have been programs at a lower educational level.

[2] At secondary level no teacher of the hearing impaired shall be responsible for more than 16 children.

[3] With aide.

PRIVATE

" 'School for the handicapped' a privately owned and operated school, industrial institution or educational organization, no matter how titled, maintained to conduct classes for the purpose of offering instruction for a consideration, profit of tuition to deaf, blind, mentally retarded, visually, physically or emotionally handicapped or disturbed persons." **(Sec. 22-330-17 Code of Va.) (L)**

By September 1, 1972, the state board was to have prepared rules and regulations not inconsistent for the managing and conducting of all schools defined in this chapter including schools for the handicapped as defined above. These rules and regulations have the force and effect of law until they are revised, amended, or rescinded by the board and any of these revisions or amendments will then have the force and effect of law. Before final adoption the board must hold a public hearing in Richmond after proper newspaper notice has been given once a week for two consecutive weeks on a daily Richmond paper. **(Sec. 22-330-19 Code of Va.) (L)**

After July 1, 1973, it will be unlawful for any school for the handicapped to be operated without having applied for and having been issued a certificate of approval by the board. Any school is qualified to receive such a certificate when it has complied with the standards and rules and regulations of the board, has paid the fee prescribed for the certificate, has been inspected by the state department of education, and has filed a report with the board. Certificates are not transferable and must be prominently displayed on the premise of the school in a place open for inspection by any interested persons during regular school hours. **(Sec. 22-330.21 Code of Va.) (L)**

By January 31, 1973, any agent or solicitor representing any school for the handicapped, whether the school is located in the state or outside the state, must apply for a permit to the board in writing upon prescribed forms. Each application shall state the name of the school which the applicant will represent, shall be verified under oath by him, and shall be accompanied by the recommendation, of three reputable persons in this state certifying that the applicant is truthful, honest, and in good reputation and recommending that a permit as an agency or solicitor be granted to the applicant. The fee for the original permit is $5.00. A separate permit shall be obtained for each school represented by agents representing more than one school. No permit is required of an owner of a school or of any person soliciting students other than that of the admission office of the school. Upon approval of an application for a permit the board will prepare and deliver to each agent a card which will include among other things the name and address and a picture of the agent, the name of the employing school and will certify that the person whose name appears on the card is an authorized agent of the school. The year for which the permit is issued will also be permanently displayed upon the card. Any agent or solicitor wishing to continue annually must renew his permit and pay a renewal fee of $1.00 by January 31st of each year. Permits not renewed on or before the 31st of January will automatically expire. **(Sec. 22-330-33 Code of Va.) (L)**

If any school district does not provide classes for special instruction for the education of handicapped children and if such instruction is unavailable in state schools or institutions and the parent pays to send the child to a private non-sectarian school approved by the state board, the school district will be obligated to pay the parents or guardians of the child for each school year three-fourths the cost of tuition but not exceeding $1250 per year, when enrolled in a special nonresidential school and three quarters the cost in a special residential school not exceeding $5,000. The local board will be reimbursed 60 percent from state funds. However, the local board is not required to provide its 40 percent if matching state funds are not available. It is provided further that if the state funds are not available, local school boards shall reimburse the parents for tuition costs in an amount equal to the actual cost of operation per pupil in average daily attendance in accordance with the limit applied for the disbursement of the basic school aid fund for the school year immediately preceding, and the school board will be entitled to count such pupils in average daily attendance and receive reimbursements from the basic school aid in the same manner as if the child were attending the public schools. **(Sec. 22-0.1:4 Code of Va.) (L)**

In order to be eligible for a private school placement, a local placement committee must identify the student as handicapped. Local resources must be found inadequate by the superintendent. The child's parent or guardian must authorize the release of all evaluation information to the local school division.

The parent or legal guardian may appeal a decision concerning tuition assistance by notifying the school board in writing and authorizing the release of evaluation materials to the independent evaluation committee appointed by the local board. The committee has five members including: a trained special educator not employed by the local board; an educator highly trained in the area of the child's handicapping condition not employed by the local board; a representative of a local mental hygiene clinic; and other necessary personnel. The board notifies the parents in writing of the decision based upon the committee's reports.

A parent or guardian dissatisfied with the second decision may appeal to the state superintendent. The parent must give signed permission to the local division for releasing evaluation materials to the evaluation team.

The evaluation team is appointed by the state superintendent and consists of at least five members including representatives from the division of special education, the department of mental hygiene and hospitals, department of health, other appropriate state agencies, and an educator trained in the area of the child's handicapping condition. Findings and recommendations are reported to the state board who in turn notify the parents in writing of its decision.

Parents or legal guardians must apply on official forms by July 15 for the school year or by January 1 for the second semester. **(R)**

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Collegiate Professional (Certificate A)

High School Teachers -- bachelor's degree: general education (48), professional education (15)
Elementary Teachers -- bachelor's degree: general education (59), professional education (18)

Eligibility for Special Education (Certificate No. 8)

Eligibility for Certificate A and specialization (27-33)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

WASHINGTON

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

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*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3511 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "Provision shall be made for the establishment and maintenance of systems of public schools free from sectarian control which shall be open to all children of said state." (Art. XXVI, Sec. 4, Wash. Const.) (L)

Compulsory Attendance Laws: All children between the ages of eight and 15, and any child between 15 and 16 years of age not regularly and lawfully engaged in a useful and remunerative occupation must attend the public school or a private school in the district in which he resides during the school year. The superintendent of the schools of the district in which the child resides if there is a superintendent, and in all other cases the county superintendent, may excuse the child from attendance because the child is physically or mentally unable to attend school. (RCW 28.27.010) (L)

It is the duty of the parents or guardians of all blind or deaf children to send them to the proper institution. The county superintendent may take all necessary action to enforce this provision. If it is evident that the child is being adequately educated at home or in some suitable institution other than the state schools, the superintendent shall [illegible] the fact and take any steps necessary to satisfy himself that the child will continue to receive [illegible] instruction. (RCW 72.40.080) (L)

Policy: "It is the purpose of this 1971 amendatory act to ensure that all handicapped children as defined in Section [illegible] of this 1971 amendatory act shall have the opportunity for an appropriate education at public expense [illegible] guaranteed to them by the Constitution of this state." (Ch. 66 Laws 1971, 1st Ex. Session) (L)

Responsibilities: The superintendent of public instruction shall require that all school districts in the state ensure appropriate educational opportunities for all handicapped children of common school age. An appropriate education is defined as education [illegible] adapted to the needs, abilities, and limitations of handicapped children. (RCW 28A.13.010) (L)

To assure compliance with the provisions of this act, the board of directors of each school district shall cooperate with the superintendent and the administrative officer of the division for handicapped children and shall provide all appropriate educational opportunities and give any other necessary and appropriate aid and special attention to handicapped children in regular or special facilities. (RCW 28A.13.030) (L)

"If a handicapped child has been denied an opportunity for an educational program by a local district superintendent, or by any other person, there shall be an affirmative showing by the school district superintendent in a writing directed to the parents or guardians of such a child within 10 days of such decision that no agency or other school district with whom the district may contract under Section [illegible] of this amendatory act can accommodate such child or that such child will not benefit from an alternative educational opportunity as permitted under section 5 of this 1971 amendatory act. There shall be a right of appeal by the parent or guardian of such child to the superintendent of public instruction pursuant to procedures established by him and in accordance with Section 9 of this 1971 amendatory act." (Ch. 66 Laws 1971, 1st Ex. Session) (L)

This act took effect July 1, 1971. (Ch. 66 Laws 1971, 1st Ex. Sess.) (L)

The preamble section to Article IX of the Washington Constitution requires provisions be made for all children of the state, and these provisions must be made without preference on account of race, color, caste, or sex. This section also imposes upon the state to make "ample provision for the education" of handicapped children. "All children" cannot be construed as excluding handicapped children.

The specific nature of the provisions for handicapped children is a matter for the legislature to decide. However, possibilities include: (1) special facilities in some or all the schools for the handicapped, (2) establishing special public schools for the handicapped, and (3) paying other states to provide the services. (Op. Att'y. Gen., February 3, 1970)

POPULATION

Definitions: "Handicapped children are those children in or out of school who are temporarily or permanently retarded in normal educational processes by reason of emotional maladjustment or by reason of other handicap, and those children who have specific learning and language disabilities resulting from perceptual-motor handicaps, learning problems, and visual and auditory perception and integration." (RCW 28A.13.010) (L)

"A child with 'specific learning disabilities' means any child who has a disorder in one or more of the processes involved in understanding or using language, spoken or written. Such disorder may manifest itself in imperfect ability to listen, conceptualize, speak, read, write, spell or do mathematical calculations. Such disorders may include conditions known as auditory and visual perceptual handicaps, minimal brain dysfunction, dyslexia, and developmental aphasia. Further, such term does include any child who exhibits marked deficits in academic and/or verbal performance, as measured against a chronological age standard. An essential aspect of a learning disability is a discrepancy between the child's apparent potential and his performance in practice. This term does not include a child who has learning problems which are primarily the result of visual, hearing, or motor handicaps, or mental retardation or gross brain injury, or originally the result of emotional disturbance."

"Hard of hearing children means those children who, because of severely impaired hearing, require special instructional methods, materials, supplies and equipment." (R)

"Deaf handicapped children are those children who have a hearing loss of [illegible] 80 [illegible] (ISO) [illegible] even with amplification are [illegible] (R)

[illegible] hearing [illegible] with the [illegible] (R)

"A child with [illegible] speech [illegible] is deficient [illegible] with communication [illegible] significant social [illegible] (R)

A child with a voice handicap has "an excess or deficiency in pitch, intensity, or quality. A child who has a deficiency in fluency which may or may not be accompanied by facial grimaces and/or excessive extraneous movements. A child with an articulation handicap has a deficiency in his ability to say sounds in conversational speech which is not consistent with his chronological and/or mental age. A child with a language handicap has a deficiency which is not consistent with his chronological and/or mental age in some or all of the following areas: (1) Has a deficiency in encoding skills to communicate information; (2) Has a deficiency in decoding skills to gain information through visual or auditory channels; or (3) Has a deficiency in organizing information."

Age of Eligibility. School districts and the state can extend their program for special education aid and training to handicapped children of preschool age. If they do so they will be entitled to regular apportionments from state and county school funds and any allocations from the state excess cost fund available for these special services. **(RCW 28A.13.050) (L)**

The state institutions for the deaf and blind will be free to deaf or blind children between the ages of six and 21. Children under age, if otherwise qualified to be admitted to the institution may be admitted if, at the discretion of the superintendent, they are proper subject for education and training. Students over age 21 may be retained in the institution if, at the discretion of the superintendent and faculty, they are proper subject to receive further training given at the institution. **(RCW 72.40.040) (L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census. The director of the department of health, through the state registrar of vital statistics, will establish and maintain a registry for handicapped children. **(RCW 70.58.310) (L)**

If the attending physician discovers that a newborn child has a congenital defect, or a physician discovers upon treating a child under age 14 that the child has partial or complete disability or condition leading to such a disability he will report the fact to the local registrar of vital statistics on a form provided by the director of health. No report will be required if the disabling condition has been previously reported or the condition is not one required to be reported to the director of health. The congenital defects will be reported at the same time as the birth certificate is required to be filed. **(RCW 70.58.320) (L)**

The director of health and any local health officer are authorized to cooperate with and promote the aid of any health nurse in public welfare services, private groups or organizations and with any state agency or political subdivision, to furnish the statistical data necessary to compile a registry for handicapped children. The director or any local health officer may accept contributions or gifts in cash or otherwise from any person, group, or governmental agency to establish a registry for handicapped children. **(RCW 72.40.060) (L)**

Clerks of all school districts, when making annual reports, will report to the superintendent of schools in their respective counties the names of all deaf, mute, or blind youth residing within their districts who are between the ages of six and 21 years. **(RCW 72.40.060) (L)**

The superintendent of the county will then report to the county commissioners concerning such children and send a copy of the report to the county school for the blind or the school for the deaf, as the case may be. **(RCW 72.40.070) (L)**

Screening. Tests will be administered each year by teachers, health officials, medical directors, or other competent persons. Tests may be administered by the superintendent, principals, or teachers of the schools. Districts of more than 25,000 children may conduct testing every two years. **(Sec. 28.31.030 RCW) (L)**

Assessment and Placement. Through rules and regulations the superintendent will establish, for the purpose of excess cost funding, functional definitions of the various types of handicapping conditions, and the eligibility criteria of programs for the handicapped. **(RCW 28A.13.010) (L)**

The concept of special education is predicated upon the identification of the need(s) of an individual child with a handicapping condition(s) that can be alleviated more effectively if extraordinary resources are brought to bear on the child's need(s) as expressed in the goals and objectives developed for that child.

A child shall become a focus of concern for special education when he is brought to the attention of school district superintendent or a member of his designated staff because of a suspected handicapping condition(s). Such concern for a child may be originated by or transmitted through any source, including: parents, medical personnel, school district personnel, community agencies, legal authorities, authorized screening procedures, or other identified interested persons. **(R)**

When a child's need has been brought to the attention of the school district superintendent or legal designee, it will be the responsibility of the district to act immediately and directly on the referral in the following ways:

The superintendent or his designee must immediately record the circumstance by date, origin, and reason for concern, or the superintendent or designee within 30 days must review the referral, begin an assessment program for the child, collect and examine existing school and other records, and make a determination that the child is or is not in need of further assessment. This decision must include date and person making decision. If the decision is that further assessment is not needed, this decision shall be communicated to the referral source in accordance with the Sanctions and Appeals section hereinafter defined. **(R)**

Prior to the school district's initiation of the formal assessment for a handicapped condition of a child, the parent or legal guardian of the child shall be officially informed of the source and reason of referral in their primary (or native) language and interpretations made where necessary. If the primary language is not English, such notification shall be translated from English into the primary language.

The steps in the procedure for assessment for appropriate programs shall be outlined, including a tentative date of completion, such date to be reasonably acceptable to both parents and/or legal guardian and school authority. By this completion date, the district shall have identified an appropriate program placement.

The parent or legal guardian of the child shall be apprised of his or her rights by document for rejection or acceptance of the school district's decision to evaluate.

The parent or legal guardian shall then decide if his or her child is to be assessed. **(R)**

If a parent or legal guardian declines permission for assessment, the information collected to date along with a statement of its perceived educational significance for the child shall be forwarded to the superintendent or his

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designee for review in terms of the mandatory child welfare and child abuse laws of the State of Washington. (R)

When the parent or guardian has given permission by signature for the district to make an assessment of a child, that child becomes eligible [illegible] approved special education personnel and other contracted assessment needs [illegible] as provided by RCW Chap. 28A.13. (R)

The school district shall collect all [illegible] past and current information available relevant to suspected handicapping condition(s) of the child in accordance with local school board adopted procedures. (R)

Assessment [illegible] resources not employed by school district is as follows:

Medical consultation [illegible] when a child is under consideration as a possible special education candidate with annual evaluation [illegible] and whenever the child's performance or behavior changes significantly.

When, as part of the [illegible] program, an activity is planned which would put an unusual stress upon a child [illegible] condition, written medical clearance by a licensed physician shall be required to show that within [illegible] practice the child will not be harmed.

Attempts shall be made [illegible] to consult with other professional persons working with the child in relevant [illegible]. (R)

Assessment [illegible] shall include, but not be limited to, the following categories: (a) scholastic: this area shall include assessment of the child's [illegible] language and communication, academic and self help skill status of the child; (b) physical: this area shall include assessment of the general health status of the child, with particular attention to the visual, hearing, [illegible] neurological and developmental modalities; and (c) adjustment: this area shall include assessment of the [illegible] emotional status of the child.

The assessment [illegible] in writing, dated and signed by designated personnel.

The assessment [illegible] procedures and instruments used, results obtained and [illegible] significance of findings [illegible].

The assessment [illegible] shall take into account, but not be limited to, the age, [illegible] and [illegible]. (R)

Assessment [illegible] shall be made by appropriate professional personnel who are licensed, registered, credentialed [illegible] professional standards in accordance with State laws and/or regulations. (R)

The [illegible] appropriate methods of collecting and displaying comparison and progress data. The [illegible] shall make a summative (comparison) and formative (change) analysis of the data collected [illegible] procedures for functionally defining a handicapping condition(s) of the child [illegible] in relation to the child's chronological age [illegible] excesses and deficits [illegible] physical and adjustment performance make up a summative analysis. A formative (change) analysis [illegible] the child's performance prior to and during the period of investigation [illegible] in conjunction with the summative (comparison) analysis to identify [illegible] program for that child. (R)

When all assessments [illegible] concern, each school district shall have in the [illegible] the child's performance excesses and deficits. Where possible, that summary shall show the relationship [illegible] chronological age to his functioning age. (R)

A summary statement [illegible] the scholastic standing, physical condition and adjustment information [illegible] assessment. (R)

Long range goals and [illegible] objectives shall be written in general areas of scholastic, physical and adjustment excesses or deficits which [illegible] by the assessment. These goals and objectives shall specify in measurable terms the [illegible] expected results and the resources needed. It is critical that the [illegible] in developing special education program goals and objectives for any handicapped child, and [illegible] person involved in the child's training shall participate in the development of those goals and objectives. (R)

Following completion of the [illegible] summary, placement goals shall be established. It shall be the responsibility of the [illegible] to develop goals which are intended to alleviate the major excesses or deficits. These goals shall be written in such a way as to expedite the determination of eligibility for placement of [illegible] in a regular education program, or other appropriate placement. (R)

Placement options for a child with handicapping condition(s) are defined as the total program plan which has the highest possibility for assisting the child in reaching long range goals and short term objectives. Placement options for services are those that [illegible] functional for children, and services may be provided independent of [illegible] physical location. Placement options shall be selected according to goals and objectives determined after assessment of each child. These placement options shall reflect totally all possible combinations of programming which ensure that a child reaches [illegible] goals and objectives, and placement options shall be determined with [illegible] during any portion of involvement in a special education program, including transportation to and from and at the program location. Proper safeguards shall be provided [illegible] when the child is unable to protect his or her own welfare, and/or when the welfare of other children may be [illegible]. To further ensure the health and safety of any child in handicapped programs, [illegible] facility planning as [illegible] in Chapter 28A.47 RCW and Chapter 180-28 WAC. (R)

In order to be eligible for [illegible] for the hearing impaired, the child must have a determined hearing loss [illegible] in the speech range (500,1000, 2000 Hz) and be in need of the support services. (R)

The following [illegible] for a child to be placed in a learning disabilities class: (1) the child when tested individually achieves within [illegible] or above average range of intellectual functioning; (2) the child shows a deficit [illegible] including discrimination, memory and integration in visual and/or auditory functioning; (3) the child shows reading performance significantly below that expected [illegible] grade [illegible]; (4) the child shows spelling performance significantly below that expected [illegible] age, grade and intelligence level; (5) the child may show a significant deficit on visual-motor-development tests, and (6) the child may show an arithmetic deficit significantly below that expected for his age, grade and intelligence level. **(R)**

Before a child can be placed in a class for the voice handicapped, a decision of the communication disorders specialist based on diagnostic findings must be made. In voice disorders involving hoarseness a physician's diagnosis is needed. **(R)**

Children eligible for a program for the hard of hearing must be evaluated and recommended by a qualified hearing specialist. The total evaluation should include examination by a physician and the school personnel should cooperate with the physician regarding any medical treatment prescribed. **(R)**

Children eligible for a school program for the deaf must be evaluated and recommended by a qualified hearing specialist. The total evaluation should include examination by a physician and school personnel should cooperate with the physician regarding any medical treatment prescribed. **(R)**

A child would be eligible for hearing therapy on recommendation of a qualified hearing therapist or audiologist. **(R)**

In evaluating the speech handicapped child, diagnosis and recommendations are made by a qualified speech therapist. **(R)**

The school district superintendent or his designee shall, based on the preceding procedures, arrive at one of the following decisions: the child does not have a handicapping condition(s); the child's education status has not been adequately resolved and an intervention in a current program is to be used to continue the process of defining the child's educational placement; the child does have a handicapping condition(s) and the appropriate educational objectives have been established for the child with a program plan for special educational services to accomplish those objectives; or the child does have a handicapping condition(s) but after careful and extensive exploration no appropriate program is available and custodial and/or other services are arranged. **(R)**

The school district superintendent or his designee shall formally and duly record the decision as to the handicapping condition(s) of a child brought to the school's attention. Whatever decision is made, the information from the procedures in making that determination shall be permanently filed in school district records and the parents or legal guardian of the child must be duly informed of the findings. **(R)**

The school district special education department shall formally advise the parents or legal guardian of the school district's decision as to a child's handicapping condition(s), the goals and objectives for the child in an educational setting, and a program plan for reaching those goals and objectives. The parent or legal guardian's decision as to agreement with the findings, objectives and placement shall be requested and duly recorded. If the parent's or legal guardian's decision is not in agreement with the school district findings, legal recourse shall be explained. Upon parent or legal guardian agreement with the findings of the school district, short term objectives shall be established and the program shall be initiated.

If the parent or legal guardian refuses to allow his or her handicapped child to be placed in a special education program, and it is the decision of the district superintendent that placement in a special education program is in the best interest of the child, and thereafter the child's parent(s) or legal guardian cause the child to be in violation of the compulsory attendance laws of the state, these facts shall be presented to an appropriate law enforcement agency for processing.

Parent or legal guardian decision relating to assessment, program development and placement may also be appealed by the child, by person(s) making the referral, or by other person(s) involved in the child's case. (See Appeals and Sanctions Procedures, Section V of these regulations). **(R)**

Following the placement or assignment of a child to specific personnel or program, short term instructional objectives shall be established which are consistent with the long range placement goals. The person responsible for establishing the short term instructional objectives shall be designated in accordance with the local district procedures. Specific instructional objectives, teaching methods or methods of evaluation to be employed are the responsibility of the local school district and not the superintendent of public instruction. **(R)**

Each district shall establish a simple and reliable system of evaluating programs established for an individual child. Placement goals and instructional objectives, when established, shall identify the end results or the standards of performance expected, and the instructional program for the child shall flow from the goals and objectives and all program evaluation shall be based subsequently upon the child's progress toward the accomplishment of these goals and objectives, and/or upon the teacher/manager efforts to facilitate change. Specific methods of evaluating and displaying program results shall be determined in accordance with local district policies and procedures.

The system shall ensure that the performance measurement is recorded and reported at both in process and final result stages, and the results of evaluation shall be reported to the parent(s) or legal guardian consistent with local school district policies and procedures.

Evaluation will serve two purposes:

(1) To compare the child's measured performance with established objectives.

(2) To attempt to identify causal factors that account for significant differences between actual and predicted performance.

From the performance evaluation, each district shall be responsible to develop in its own format, alternatives designed to improve methods and results.

Whenever a medical situation requires that a student receive medication or treatment during the school day, a child's parent or legal guardian shall provide school personnel with written orders and instructions from the child's physician for administering such medication or treatment. The orders shall be current, obtained at least yearly and reviewed and updated whenever there is significant change of the child's school activity program, in accordance with local school district policies.

Upon request for admission of a handicapped child to an appropriate special education program made by a parent or legal guardian, or by the child, or by person(s) making a referral, or by other person(s) directly involved in the child's care, the local superintendent shall determine within 30 days whether a child will continue in attendance in a program through the school system. Such determination shall be made only after attempts have been made to provide a program for the child within the local school system or by contracting with an agency to provide a program, or by providing home services. (R)

If the local school district superintendent determines that an exclusion is necessary, he shall make an affirmative showing in writing [illegible] to the parent or legal guardian of the child within 10 days of such a decision, [illegible] with the following procedures [illegible] whether a school district with whom the district may contract under RCW Chap. 28A.[illegible] can accommodate such child, and such child will not benefit from an alternative educational opportunity as permitted under RCW Chap. 28A.[illegible] shall notify the local school board of his decision specifying the child

The local superintendent of schools [illegible] After doing so he shall also notify the parent(s) or legal involved and accompanied by a statement of his reasons. [illegible] so that they may appear before the school board as indicated later guardian of the child and others [illegible] in this text. (R) [illegible] educational program provided by the school district

A notification of the decision to exclude the child from an [illegible] to the parent or legal guardian and child shall be conveyed by certified mail or in person. The notice shall [illegible] their right to appeal the decision [illegible] a hearing before the local school district board [illegible] shall also include a statement [illegible] the opportunity of attending a special education program provided by the [illegible]. (R) [illegible] child is excluded from a special education

Upon notice from the local school district superintendent that his or her child is excluded from a special education program, the parent or legal guardian of the child shall have 30 days within which to appeal this decision to the local school board and indicate whether [illegible] represented by legal counsel. Counsel for the local school district superintendent's decision [illegible] of that school year. [illegible] any of his child's rights to an education, including

A parent or legal guardian [illegible] appointed guardian or other appropriate person may participation in a special education [illegible] the child's right to an education. aid the child for the purpose of [illegible] superintendent shall schedule the matter for hearing by the

If such a hearing is requested, [illegible] school district superintendent shall schedule [illegible] at a special board meeting. Said local school district board of [illegible] at the next regularly scheduled meeting or at a special board meeting [illegible] request. (R) meeting in no case to occur more than [illegible] days after receipt of said request. [illegible] shall be substantially in

The administrative procedures for such hearing before the local school board shall be [illegible] compliance with the Washington Administrative Procedures Act. The parent or guardian may be represented by counsel and shall have the right to present evidence and such witnesses as he may desire and cross-examine all [illegible] affidavits, exhibits or evidence witnesses. The parent or legal guardian [illegible] of all witnesses to be called [illegible] available to school authorities. [illegible] the hearing by the school district and sent to the superintendent corded, or reliable verbatim record shall be made [illegible] Such record shall be available to the parent/legal guardian of public instruction within five school days of the hearing. [illegible] requested.

The local school district board's decision shall be made in the form of written findings not more than 10 days after the conclusion of the hearing. A copy of the board's report shall be sent by certified mail or delivered in person to the parent(s) or legal guardian of the child with a copy being sent to the superintendent of public instruction and a copy being placed in the local school district superintendent's office file. (R)

Either party shall have the right to appeal the local school board's decision within 30 days of receipt of notification of said decision directly to the superintendent of public instruction. The scheduling for such an appeal is to be made at the discretion of the superintendent of public instruction. The party shall also have the right to appeal any decision made by the superintendent of public instruction to the Superior Court in the county in which the child resides. Such appeal shall have the form of a de novo hearing on the merits. (R)

Any child subject to a determination under these proceedings shall remain in attendance throughout the proceedings as detailed in paragraph [illegible] of Appeals and Sanctions Procedures (above). (R)

Sanctions will be placed on a school district within [illegible] days of the district being found not in compliance with Chapter 28A.[illegible] RCW. These sanctions shall include but not be limited to the withholding of not less than [illegible] nor more than [illegible] of all state funds due the noncomplying school district. The superintendent of public instruction shall use his discretion in determining when a district is or is not making a good faith effort to comply with the laws stated above. The funds withheld and any other penalties imposed shall be reinstated upon a decision of the superintendent of public instruction concerning the individual school district's intent and degree of compliance. [illegible] district is required to spend for each handicapped child at least that amount of [illegible] funds that is expended on a per student basis throughout the school district.
(R)

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ADMINISTRATIVE RESPONSIBILITY

Within the office of the superintendent of public instruction there is established a division of special education
for handicapped children known as "the division for handicapped children." **(RCW 28A.13.010) (L)**
An administrative officer of the division for handicapped children will be appointed by the superintendent. Under
the direction of the superintendent, the administrative officer shall coordinate and supervise the special education
program in all school districts of the state. He will cooperate with intermediate school district superintendents and
school district superintendents, and all other interested school officials, to make sure that all school districts pro-
vide appropriate educational opportunities for all handicapped children. He will further cooperate with the state
secretary of social and health services and with county and regional offices on cases needing medical examination
or other attention. **(RCW 28A.13.020) (L)**
Through the division of special education, the superintendent of public instruction has the duty and authority

programs to meet needs of handicapped children; (2) develop in-
to: (1) assist school districts to form local school programs [illegible] nation, upon request, as to programs for the handicapped; (3) in-
terdistrict cooperation programs; (3) provide information, upon request, as to programs for the handicapped [illegible]
the state to parents or guardians; (4) upon request, assist parents or guardians of any handicapped child in the pla-
cement of a child who is eligible [illegible] special education and (5) approve school districts and agency
programs eligible for special excess cost financial aid to handicapped children; (6) upon appeal by a parent or
guardian of a handicapped child [illegible] educational program, adjudge whether the decision of the local
school district superintendent [illegible] the child was justified. If the superintendent decides otherwise he will
apply sanctions including withholding any portion of the state aid to the district until compliance [illegible]
(7) establish [illegible] to implement educational opportunities for all handicapped children
who are [illegible] (Ch. 66, Laws 1971, 1st Ex. Session) (L)

The state superintendent of public instruction does not have the constitutional authority to pay private
schools and agencies for the education of the handicapped, even though it is not provided in the local school
district. Such appropriations would have to be granted by the legislature through legislation. (Op. Att'y. Gen.
February 3, 1970)

PLANNING

The state department of special education provides overall leadership and direction for the state in program plan-
ning for handicapped children.
Administration of the local special education program is a direct responsibility of the superintendent or school board
of the individual district or his delegated representative. **(R)**
Guidelines for the superintendent to consider in developing a program for special education and arranging for
suitable state and local financial support are as follows:

1. A survey should be conducted in the district to determine number and type of handicapped children in need of special education services.
2. If the survey indicated a need for education service for special education, the designated administrator should carefully consider the advisability of such recommendations in the light of the following necessary approval: for personnel requirements to meet the needs of the proposed program; local cost of program and necessary approval of state funds; classroom space needed; special equipment required; school community acceptance and cooperation; and possible cooperative agreement of participation with other districts. **(R)**

To ensure that appropriate education is provided for every handicapped child's unique need and ability, there
shall be established by the superintendent of public instruction a Special Education State Advisory Council. The
Council's purpose is to provide information and guidance to the superintendent of public instruction and his staff
in the administration of the state handicapped programs. The Council shall consist of no less than 20 members rep-
resenting local administrators of special education programs; administrator organizations; teachers of handicapped
children; teacher organizations; parents of handicapped children; parent organizations; institutions of higher educa-
tion; department of social and health services; the medical profession; and other appropriate groups and individuals
subject to the approval of the superintendent of public instruction. This Advisory Council shall meet at least quar-
terly. **(R)**
To ensure that maximum information and recommendation are provided to the superintendent of public instruc-
tion, the State Advisory Council shall have the authority to recommend the design of its organization and to ap-
point ad hoc and steering committees for carrying out its responsibilities. **(R)**
To ensure continuous revisions of rules and regulations and/or guidelines necessary for providing an appropriate
education for handicapped children, a standing committee shall be appointed by the superintendent of public in-
struction to review recommended changes in the rules and regulations and/or guidelines. This standing committee
shall consist of no less than five persons representing teachers, parents, administrators, educational institutions and
educational associations, finance and support personnel. This committee shall hold quarterly meetings. Individuals
or groups [illegible] the standing committee directly or by correspondence through the superintendent of public
instruction. Representatives to the [illegible] shall be chosen to reflect broad and fair coverage of pro-
fessionals serving children who are handicapped. **(R)**

FINANCE

At each regular session of the legislature, the superintendent of public instruction shall submit a programmed budget for programs for the handicapped. Local school districts operating programs will receive reimbursement on an excess cost basis from legislative appropriations and will take into account funds received from the state through RCW 28A.41.120, RCW 28A.41.130, RCW 28A.41.140, and any other state and local funds. **(Ch. 66, Laws 1971, 1st Ex. Session) (L)**

In order to equalize educational opportunity, the superintendent of public instruction will establish every two years, a weighted schedule of costs for educational programs subject to the action of the legislature. Among the areas included in the weighted costs are costs incurred and appropriated to operate an approved program for handicapped children. **(RCW 28.41.140) (L)**

Any district providing services to children at home or in other approved places for those children unable to attend school, is granted the regular apportionment of state and county school funds and any allocations available from the state excess funds for these special services. If a handicapped child attends the special education program operated by a school district other than his district of residence, the regular apportionment is granted to the receiving school district, and the receiving school district is reimbursed by the district in which the child resides for the entire approved excess cost not reimbursed by the regular apportionment in accordance with the rules and regulations of the superintendent. **(RCW 28A.13.040) (L)**

The cost of room and board in facilities approved by the department of social health services is provided by that department for those handicapped children eligible for aid under the programs of the department. The cost of approved room and board for those children not eligible but in need of this service, shall be provided, but no school district is financially responsible for special aid programs for students attending residential schools operated by the department of social and health services. However, no provisions of the act shall "preclude the extension by the superintendent of public instruction of special educational opportunities to handicapped children and residential schools approved by the department of social and health services." **(RCW 28A.13.030) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

In order to provide appropriate educational opportunities for handicapped children, the board of directors of each school district may contract for special education services with other agencies or shall participate in an intermediate arrangement. **(L)**

Boards of directors of the school districts are authorized to contract with agencies approved by the state board in order to provide services for all handicapped children. Approval standards for these agencies shall substantially conform to the standards for special education programs of the common schools. **(L)**

Cooperative programs may be developed between two or more school districts. Services may be offered by a single district for other districts or a program may be operated jointly within these districts. Financial arrangements in cooperative programs vary in accordance to the degree of service secured from another district. The type or extent of services and financial arrangements should be in written form between the cooperating districts, and local school district fiscal responsibility should be clearly defined. Such agreements should be made prior to enrolling a child by the participating district to a serving district. **(R)**

Educational services are provided in state residential schools through the local school district in which the state residential school is situated. The administrative responsibility for the operation of the school programs in state residential schools remains with the local school district, with the residential school superintendent retaining full jurisdiction over and responsibility for the residents. These operational practices have been agreed upon by the office of the superintendent of public instruction, the department of institutions, and the local school district and are regularly reviewed. Biennial budget needs for these educational programs are determined separately and apart from those of the local school district. **(R)**

Any district providing services to children at home or in other approved places for those children unable to attend school is granted the regular apportionment of state and county school funds and any allocations available from the state excess funds for these services. If a handicapped child attends the special education program operated by a school district other than his district of residence, the regular apportionment is granted to the receiving school district, and the receiving school district is reimbursed by the district in which the child resides for the entire approved excess cost not reimbursed by the regular apportionment in accordance with the rules and regulations of the superintendent. **(R)**

The cost of room and board in facilities approved by the department of social and health services is provided by that department for those handicapped children eligible for aid under the programs of the department. The cost of approved room and board for those children not eligible but in need of this service shall be provided, but no school district is financially responsible for special aid programs for students attending residential schools operated by the department of social and health services. However, no provisions of the act shall "preclude the extension by the superintendent of public instruction of special educational opportunities to handicapped children and residential schools approved by the department of social and health services. **(R)**

School districts, severally or jointly, with the approval of the superintendent of public instruction, shall be authorized to contract with non-public school agencies for appropriate educational opportunities for handicapped children, as defined in RCW 28A.13.045. **(R)**

BEST COPY AVAILABLE

Approval for providing contracted special education services shall be determined by the state board of education (RCW 28A.13.045) and shall be [illegible] in accordance with the following procedures:

1. School districts, prior to contracting, shall evaluate each pupil and document that no appropriate district program exists, can be reasonably established, or can be contracted for with another school district.
2. School districts wishing to contract for services shall determine that all requirements for contracting have been met and shall forward to the superintendent of public instruction an application for contracting services together with supporting documentation of the contractee's eligibility.
3. The special services section of the superintendent of public instruction's office shall in turn recommend approval or disapproval of the request to provide contracted services.
4. School districts shall not [illegible] the contract awards until approval has been determined by the state board of education. (R)

In order to be eligible to provide contracted services to the handicapped child, the following standards of program and function shall be maintained: the program for each pupil shall have training and education as its primary purpose; each pupil served must be functionally defined as handicapped in accordance with the rules and regulations established by the superintendent of public instruction; the program shall be staffed by certificated teachers or appropriately credentialed professionals trained in the field of teaching handicapped children or in the area of the specific service being given; the [illegible] shall conform substantially to those standards promulgated for approval of special [illegible] public schools. Local district standards may exceed but cannot be less than state standards. A [illegible] shall be [illegible] for standards relating to staff training and experience, facilities and programs. (R)

In contracting for services with public or private agencies or from an individual, the local school district shall retain the following responsibilities:

1) Local district liability for the health and welfare of pupils as prescribed by RCW [illegible] and RCW [illegible] shall not be waived by [illegible] a non-public school agency. Said agency shall be considered the agency of the [illegible] and as such shall not waive liability of the school district or its employees charged with the [illegible] training of handicapped pupils.
2) The school district [illegible] shall evaluate [illegible] each pupil and provide [illegible] that no appropriate school program exists, can be reasonably established or can be contracted with another district.

3) Each pupil for whom a contract is written shall be on the local district attendance roll and remain on said roll for the duration of the contract.
4) All contracts of this type shall be reviewed and approved by the local school district board of directors and must specify the type, duration, and costs of the services to be performed.
5) Payments to the contracting agency shall be made by the school district. Funds shall be paid through established apportionment procedures. (R)

The contracted agency [illegible] shall be in conformity with all applicable federal, state and local laws, regulations and [illegible] and shall be in conformity with the following standards: A contracted agency which is a non-profit [illegible] exempt from federal income taxation under Section 501 of the Internal Revenue Code of 1954 [illegible] organization in a community where state or applicable local law provides for licensing of such agencies [illegible] pursuant to such law or approved by the state or local licensing agency [illegible] the staff of the contracted agency shall be currently licensed or registered or certificated and/or accredited in accordance with applicable laws. The agency shall maintain recording and verification procedures that ensure valid and current licensure. (R)

Each nonpublic school agency [illegible] providing special education services to school districts shall have written and available for review policies which govern services contracted for, such policies to comply with [illegible] local school district and state [illegible]. Such policies shall include the following elements: scope of the services offered, admission and discharge policies, educational philosophy and methodology, care of children in emergencies, clinical and administrative records, personnel policies, staff duties, and fee schedules. (R)

Contracted special education services provided to a school district shall be coordinated with the district. Close liaison shall be maintained between the various professionals to ensure that the provision of care is in accord with the established objectives and educational goals. Also, a working relationship shall be established and maintained which will insure the control of the provision of all services contracted to the child [illegible] by the school district in accordance with contract conditions. (R)

When a school district provides educational services for a handicapped child under an arrangement with a public or nonpublic school agency or with an individual person, such services shall be furnished in accordance with the terms of a written contract. The contract shall provide for retention by the school district of responsibility for and control of such services, and shall include the following elements: description of the services to be provided; [illegible] in which services are to be provided [illegible]; description of how contracted personnel [illegible] supervision; description of [illegible] coordinated with the school district; assurance that periodic pupil progress reports [illegible] at least monthly to the district; method of determining [illegible] reimbursement [illegible] contract; specification of [illegible] of con[illegible] [illegible] contracted services are [illegible] review, case information and development [illegible] based on assessment [illegible] and the terms whereby the contract may be altered or terminated. (R)

In [illegible] school district [illegible] nonpublic school [illegible] the superintendent of public instruction [illegible] agency in the state [illegible] state funds [illegible] program and may include [illegible] cost funds as approved by the superintendent of public instruction.

[illegible] the local director of special education shall be required [illegible] by local districts. Safeguards and procedures [illegible] are prescribed by RCW 28A [illegible] (R)

SERVICES

School districts [illegible] superintendent have the authority to establish, operate [illegible] approved by the department of social and health services [illegible] handicapped children. With the approval of the administrative officer of the [illegible] pay for the operation of these residential schools out of their [illegible] (RCW 28A.13.030) (L)

Children [illegible] aid and programs for the handicapped shall [illegible] place determined by the board of directors of schools [illegible] which the [illegible] (See RCW 28A.13.040) (L)

Transportation [illegible] No district is required to transport any handicapped [illegible] All handicapped children who are [illegible] ambulatory [illegible] to and from school to the agency providing the special [illegible] service. (RCW 28A.24.100) (L)

[illegible] the special [illegible] of the county. (RCW 28A.13.010) (L)

School [illegible] to transport handicapped children to and from [illegible] is not reasonably available for these purposes [illegible] school districts, if they do not conflict with regular [illegible] the criteria for the bus use and lease including minimum [illegible] (Ch. 75, Laws 1971, 1st Ex. Session) (L)

All [illegible] providing free instruction and speech reading for hearing handicapped children [illegible] for similar instruction to hearing handicapped adults, if in their judgment [illegible] and the adults concerned. (Sec. 28A.58.107 RCW) (L)

Placement options shall [illegible] be limited to the following:

In the event of [illegible] may be managed in a special manner within a regular classroom program [illegible] in a regular classroom setting may be established.

Support services [illegible] handicapped child may include but not be limited to, the services of the following [illegible] physical therapists, nurses, social workers and any specialized [illegible] help the child reach the objectives needed to function educationally.

A [illegible] school district may be established to provide specialized instruction [illegible] more than two hours per day in the resource [illegible] school district curriculum and receive regular instruction primarily [illegible]

[illegible] program and support programs may be established in accordance with the school [illegible] granted by the superintendent of public instruction.

[illegible] school district may be established to provide specialized instruction [illegible] more per day in that classroom [illegible] the school day [illegible] time in that classroom.

Self-[illegible] may be established in accordance with school district policy and [illegible] by the superintendent of public instruction.

Self-[illegible] residential services may be established in accordance with school district policy and the [illegible] by the superintendent of public instruction.

The home [illegible] who have unmet school needs and because of illness [illegible] of [illegible] weeks or more. Such children unable to attend school [illegible] illness may receive home or hospital instruction [illegible] the school authorities. The parents shall request these services in writing [illegible]

Other [illegible] in accordance with school district policy and funding authority [illegible]

[illegible] may be referred to the state department [illegible]

Other [illegible] of public instruction are available.

All [illegible] apportionment shall hold a valid Washington State [illegible] to the position in which they are [illegible]

A trial placement in a class for hard of hearing child would generally precede placement in a regular classroom

with normally hearing children. But, as the child's abilities permit, the major education objective is integration with normal hearing children in a regular classroom. However, it is expected that during his preschool, primary and intermediate grades he will need special hearing training.

As a part of his total school program, the hard of hearing child needs the maximum amount of regular classroom experience so that he may have continuing normal speech and language stimulation. He should be taken from the regular classroom only to the extent that his special hearing training requires. Only under the most unusual circumstances should a hard of hearing child be placed in a full-time class for deaf children.

Where evaluation indicates that the hard of hearing child's intellectual abilities are limited, placement should be sought in a program adapted to his ability and aimed toward more appropriate educational goals.

Termination of the special program for the hard of hearing child should occur when evaluation indicates that he is ready to continue his school program without special help, or when he demonstrates that he has reached his maximum social, academic, and vocational potentials.

The "oral" approach is the method of instruction to be used in special classes operated for the deaf in the public school districts in the state of Washington.

All handicapped children who are not ambulatory or capable of protecting their own welfare while traveling to and from school or the agency providing the special educational services are provided with transportation at school district or districts' expense. (R)

Transportation options shall include the following categories, such options to be exercised in the following sequence: A. scheduled school bus, contracted transportation, including public transportation, and other arrangements including transportation by parent or legal guardian.

Board and room (and transportation) may be used whenever the above stated transportation options are not feasible because of the needs of the handicapped child or because of the unavailability of adequate means of transportation, in accordance with the rules and regulations established by the superintendent of public instruction as specified in Chapter 28A.13 RCW. (R)

The transportation of a child with a handicapping condition(s) shall be in accordance with the rules and regulations of the state superintendent of public instruction, as amended hereafter, in accordance with guidelines currently under development by the division for special education. (R)

Funds to support bus aide shall be provided subject to program approval by the superintendent of public instruction.

Training and supervision of bus aides shall be the responsibility of local school district superintendent or his designee. (R)

Special equipment may include ramps, wheelchair holders, restrainers and two-way radios. All such special equipment shall comply with specifications now or hereafter contained in the 1972 School Bus Specifications as administered by the state superintendent of public instruction.

An inventory of all such special equipment shall be maintained by the intermediate school districts to ensure full and continued use of special equipment within that intermediate school district or among other intermediate school districts. (R)

Wherever possible no child should be required to ride more than 60 minutes one way. (R)

Any disciplinary action required for any handicapped child during transportation time will be the responsibility of the transporting district. (R)

Class Size:	NUMBER OF PUPILS	
	Minimum	Maximum
SPEECH HANDICAPPED		
Speech Therapist (weekly caseload) - Moderate Defects	65	65
Speech Therapist (weekly caseload) - Severe Defects	–	50
LEARNING DISABLED		
Special Class	4	8
AURALLY HANDICAPPED		
Special Class	6	[illegible]
Regular Class	4	[illegible]
EDUCABLE MENTALLY HANDICAPPED		
Preschool and Kindergarten	6	10
Primary	8	[illegible]
Intermediate	8	[illegible]
Secondary	10	[illegible]

TRAINABLE MENTALLY HANDICAPPED		
Preschool and Kindergarten	6	8
Primary	8	10
Intermediate	8	10
Secondary	8	10
PHYSICALLY HANDICAPPED		
Special Class: Severely Orthopedically Handicapped		[illegible]
Home or Hospital Instruction (weekly caseload)	8	12
EMOTIONALLY DISTURBED		
Preschool and Kindergarten	6	8
Primary	6	8
Intermediate	6	8
Secondary	8	10
MULTIPLY HANDICAPPED		
Special Class	4	8
VISUALLY HANDICAPPED		
Regular Class Placement	(2)	
Special Class	6	12
BLIND		
Special Class	6	10

1. Reduce regular class load by about four normally hearing children for each hearing handicapped child.

2. Reduce regular class load by one to three normally seeing children for each partially seeing child in the class.

PRIVATE

See Services. Statutes contain no specific provision for the handicapped in this area.

Personnel

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Provisional Teaching Certificate (Certificate No. 5)

for in-state graduates; valid grades K-12; approved program, general education (35%), specialization (35%), professional education (20%)

Eligibility for Secondary Provisional (Certificate No. 6)

out-of-state graduates; valid grades 7-12; bachelor's degree from accredited institution; valid secondary certificate from another state

Eligibility for Elementary Provisional (Certificate No. 7)

valid grades K-9; same as Certificate No. 6 for elementary

Eligibility for Special Education

valid Washington State Teaching Certificate (preferably No. 5 or 7); specialization (varies); student teaching

FACILITIES

Construction of special [illegible] remodeling of present facilities, in order to meet the special education needs [illegible] shall be provided in accordance with the rules and regulations [illegible] in accordance with the rules and regulations of the [illegible] (R)

STATE PROFILE

WEST VIRGINIA

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The Legislature shall provide, by general law, for a thorough and efficient system of free schools." (Art. XII, Sec. 1, W. Va. Const.)

Compulsory Attendance Law: Children may be exempted from compulsory attendance requirements if they are physically or mentally incapacitated for school attendance and the performance of school work. In all cases of prolonged absence from school through [illegible] a written statement of a licensed physician or authorized school nurse is required. (Sec. 18-47 WVCA)(L)

No educationally exceptional child is excused or excluded from attending school without written approval of the county superintendent. (Sec. 1905 WVCA)(L)

All persons having control of a mentally normal child over six years of age who is so impaired in vision or hearing to the extent that he cannot benefit by public school instruction are required to send such a child to a West Virginia school for the deaf or the blind. The child must attend school [illegible] each year until he has completed the course of instruction or has been discharged from the school by the superintendent.

Exemptions are granted from this section if the child is receiving instruction from a private tutor, instruction in another approved school, or is physically incapacitated for such work. (Sec. 18-8-10 WVCA)(L)

Responsibilities: County boards of education having five or more exceptional children in their jurisdictions shall establish and maintain special education programs in ordinary and [illegible] or special schools. Further, the county boards of education may establish and maintain other educational services for exceptional children as the superintendent of free schools may approve. (Sec. 18-20-1 WVCA)(L)

By the school year beginning July 1, 1974, county boards of education must maintain classes for exceptional children. (Sec. 18-20-1 WVCA)(L)

Immediate priority for educational services is given to children for whom there are no existing programs. (Sec. 18-20-1 WVCA)(L)

West Virginia Code, Section 10, Article 8, Chapter 18 of 1951 provided that any child over six years of age who is "defective in sight or hearing" and thus could not beneficially attend public school was to be sent to the West Virginia school for the deaf. In 1953, the law (code) was rewritten and Section 1, Article 20, Chapter 18 provided for the establishment of special schools for all categories of handicapped children by each local school system as long as there were 5 handicapped children in each category. The question was asked whether the 1951 Code was superseded by the 1953 Code. It was the Attorney's General opinion that the 1951 Code was not superseded. The new 1953 Code was not mandatory so it was considered as only supplementing the 1951 Code. By educating the deaf and blind in a special school set-up the home district would alleviate the crowding at the state schools. If special schools were not established, the deaf and blind children were still required to attend the state school. **(Op. Att'y. Gen., February 8, 1954)**

POPULATION

Definitions: Exceptional children are defined as those children "who meet the public school age requirements, who differ from the average or normal in physical, mental, or emotional characteristics, or are not capable of benefiting through ordinary classroom instruction, but may be expected to profit from a special education program."

The general types and classifications of exceptional children for whom provisions may be made include: "visually impaired, hearing impaired, physically or orthopedically handicapped, epileptic, mentally retarded, speech handicapped, multiple handicapped, autistic and other mentally ill, intellectually gifted, socially or emotionally maladjusted, including the delinquent, learning disabled, both physical and psychological, and any other areas of exceptionality which are identified and approved by the state superintendent of free schools." (Sec. 18-20-1 WVCA)(L)

A child is said to have a "communication disorder whenever he exhibits difficulties in speech and language which interfere with communication. Examples of such disorders include problems of articulation, voice, fluency, language (symbolization), and foreign dialect. This definition of a child with a communication handicap should remain flexible and dynamic." (G)

A hearing impaired (deaf or hard of hearing) child is a person who requires specialized education because of a hearing loss.

A hard of hearing child is one whose sense of hearing, after medical treatment, is still defective but is functional with or without a hearing aid.

A deaf child is one whose sense of hearing is non-functional; he must have his entire language structure taught by specially qualified persons.

"Children with 'specific learning disabilities' are those children who have a disorder in one or more of the processes involved in understanding or using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, or mental retardation, or emotional disturbance or of environmental damage." (G)

Age of Eligibility: Services are mandated for persons of school age, i.e. beginning at five with no upper limit. Services may begin at age three.

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Census: A statewide school census, to be taken every five years, includes listing of mentally and physically handicapped persons of all ages. The school census is taken by teachers under the direction of the county superintendent. In order that the census records may be as accurate and current as possible, each county superintendent shall establish and administer through the office of the county director of school attendance, a system of cumulative census records as prescribed by the state superintendent of schools. **(Sec. 1814 WVCA) (L)**

Screening: The referral of a student with a communication disorder may be made by the teacher, parent or interested person through the principal to the director of special education programs at the local level. Referrals for children not presently enrolled in school may be made directly to the director of special education programs.

The teacher, principal, parents and other appropriate persons shall provide supplementary information. It is the responsibility of a qualified clinician to determine if a child has a communication disorder. Initial consideration of a child may be done through screening, referral, observation, or any combination of the three. An intensive diagnostic battery including speech and language testing, oral peripheral examination, and any other testing pertinent to a complete diagnosis of the disorder should be administered. **(G)**

The referral of a hearing impaired student may be made by the teacher, parent or interested person through the principal to the director of special education programs at the local level. Referrals for children not presently enrolled in school may be made directly to the director of special education programs.

Assessment and Placement: Data previously accumulated will be made available to the local director of special education. Written consent should be obtained from the parents or guardian prior to a psychological, otological, or audiological evaluation. A personal conference with the parents and appropriate specialist should follow the individual examination.

Children placed in a program for the hearing impaired shall be re-evaluated as deemed necessary by the appropriate educational or medical specialist.

A special education advisory committee will review and make recommendations on applications of pupils for placement in a special program, annually review each child's progress and recommend promotion policies; review and recommend the continuation or termination of a pupil in the special program.

Action taken by the advisory committee shall be submitted to the county superintendent for his consideration. The committee shall consist of at least three members and should be representative of the following: examining psychologist (by recommendation on report), director of special education, principal, special education teacher, county superintendent or his designated representative, regional specialist, parent, physician (by recommendation on report), social worker, guidance counselor, audiologist (by recommendation on report), otologist (by recommendation on report), and speech clinician. **(G)**

The referral of a student with a learning disability may be made by the teacher, parent or interested person through the principal to the director of special education programs at the local level. Referrals for children not presently enrolled in school may be made directly to the director of special education programs.

Written consent should be obtained from the parents or guardian prior to any individual medical or psychological evaluation. The diagnosis of a learning disability should be made by a multi-disciplinary team representative of the following: learning disabilities teacher, principal, special education director, psychologist, speech clinician, and physician.

When indicated, ancillary diagnostic consultations shall be performed. Each child enrolled shall have an intelligence quotient of 90 or above as determined by an individual psychological evaluation. A child with a borderline I.Q. (75 to 90) and a specific learning disability may be placed in the program if he will not profit from any other available program.

Children receiving learning disabilities services shall be re-evaluated periodically. Test results which are more than three years old shall not be used for continued placement.

A special education advisory committee will review and make recommendations on applications of pupils for placement in a special program, annually review each child's progress and recommend promotion policies; review and recommend the continuation or termination of a pupil in the special program.

Action taken by the advisory committee shall be submitted to the county superintendent for his consideration. The committee shall consist of at least three members and should be representative of the following: examining psychologist (by recommendation on report), director of special education, principal, special education teacher, county superintendent or his designated representative, regional specialist, parent, physician (by recommendation on report), social worker, guidance counselor, and learning disabilities specialist.

Every county which anticipates developing a special education program should first undertake a survey of actual need. Once this initial survey of exceptional children has been completed a logical program can be planned and initiated. It is important that the survey be kept up to date, and it is recommended that the county conduct a census of handicapped pupils annually.

Outside professional surveyers should be employed as consultants to assist in the interpretation of the data collected and to counsel the educational staff on the nature and scope of the survey.

Any school employee who is aware of a child's exceptionality should have the responsibility to refer the child for special education evaluation. Parents and private medical personnel should also make initial referrals for special education evaluation by notifying the principal of the school in which the child is enrolled.

Prior to placement in any special education program, each child must be examined by appropriate medical or psychological specialists who report to the county superintendent of schools. The specialists' report must carry a recommendation for eligibility and placement in a regular school or in a special education facility. The report must also indicate the nature and extent of the child's disability and recommend any treatment and/or prothesis necessary for alleviating it. **(Sec. 1905 WVCA) (L)**

Generally, the personnel performing the evaluation should be part of a placement or evaluation committee, along with the county or regional director of special education.

Specialists from various disciplines, who should be available to serve as a member of the placement or evaluation committee when needed are: a school psychologist; clinical psychologist; neurologist; school physician; school nurse; speech therapist; audiologist, rehabilitation counselor; school social worker; and guidance counselor. **(R)**

The final authority for pupil placement in special education programs should be the responsibility of the placement or evaluation committee. Under no conditions should individuals such as the building principal, classroom teacher, or school physician place pupils in the special education program without proper recommendation from the placement or evaluation committee. **(R)**

A child must meet the following standards of eligibility before he can be considered for enrollment in a special program for children with hearing loss, visual, or speech defect:

1. Chronological age of six to 21. A child who reaches his 21st birthday within the school year may continue in school throughout the school year.
2. Mental age of three years or above.
3. Intelligence quotient of not less than approximately 50, as nearly as it can be determined with these children when tested by a skilled examiner.
4. Careful physical examination by a qualified medical specialist. Tests of vision and hearing are required. Reports of these tests and recommendation for special class placement shall be made in detail on appropriate forms.
5. For enrollment in the speech therapy program, children with speech problems must be recommended by speech therapist, medical doctor, or therapist. Final disposition rests with the therapist. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The state superintendent may organize a division for special education. If he does so, the division (not the state superintendent) is the agency charged with the following responsibilities:

1. stimulating and assisting county boards of education in establishing special education programs;
2. cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating, and rehabilitating exceptional children and coordinating services with such agencies,
3. preparing necessary rules, regulations, and formulae for distribution of funds,
4. defining minimum standards for providing suitable educational facilities for exceptional children, and insuring employment, certification, and approval of qualified teachers and therapists subject to regulations of the state board, and
5. receiving applications, reports, and claims for reimbursement from county boards and auditing the claims and preparing reimbursement vouchers. **(Sec. 1905 WVCA) (L)**

The schools for the deaf and blind are under the control, supervision, and management of the state board of education. The state board employs the superintendent, principal, teachers, and any other necessary personnel. **(Sec. 18-17-1 WVCA) (L)**

PLANNING

The organization of a program of services for educating exceptional children should be initiated by the adoption of a philosophy of special education by the county. Included should be a statement of program objectives, a policy concerning the referral, selection, admission, transfer, and termination of special education pupils, and procedures for evaluation and re-evaluation of exceptional pupils in the school district. **(R)**

The formation of an advisory committee, part of which could also serve as the required admission board, is recommended to foster community relationships and further the development of special education within the county. This committee should be appointed by the school board and be composed of energetic and professional citizens who are interested in the special education program. **(R)**

FINANCE

Counties maintaining special education programs and requesting state reimbursement must file with the state superintendent an application for the funds, annual reports, and any other required reports. These reports include the names and ages of enrolled children and a record of their school attendance, diagnostic and disability data necessary to insure eligibility and educability, and evidence of educational progress. The reports must also include listings of all special teachers and therapists together with their salaries and travel expenses incidental to their work, all special equipment purchased together with costs, and an itemization of costs for all special services. The state superintendent sets the distribution formula.

Any county board of education may establish and maintain any special schools, classes, home teaching, or visiting teacher services out of local funds. **(Sec. 1905 WVCA) (L)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

Counties not providing or maintaining special schools, classes, or home or visiting teacher services may provide for their resident exceptional children by contracting with other counties which maintain programs. **(L)**

The sending county will pay the receiving county the per capita cost of instruction, special equipment, and special services not reimbursed to the receiving county by state funds, plus the cost of transportation, board, and lodging, if necessary. **(L)**

SERVICES

Special education programs include, but are not limited to, special schools, classes, and home or visiting teacher services. **(Sec. 18-20-1 WVCA) (L)**

The board of education in each county is responsible for providing suitable education facilities, special equipment, and necessary special services. Special services include provisions and procedures for finding and enumerating all exceptional children, diagnosis by appropriate specialists to certify their needs and eligibility for special education, and recommendations for any necessary treatment and prothesis, special teaching by qualified and specially trained teacher, transportation, lunches, and remedial therapeutic services. Special education teachers are appointed by the county boards as are other public school teachers. Therapists must comply with standards prescribed and approved by the West Virginia medical licensing board. **(Sec. 1905 WVCA) (L)**

If there are less than five exceptional children of any single disability who cannot be brought together in special classes, or if for any other reason the children cannot be educated profitably in special classes, counties may provide for their education through home and/or visiting teacher services. **(Sec. 1905 WVCA) (L)**

County boards of education may provide special schools, classes, home teaching, or visiting teacher services for exceptional children between ages three and five. **(Sec. 18-20-1 WVCA) (L)**

County boards are responsible for providing special transportation when necessary for handicapped children. These children may also use regular school bus transportation. **(R)**

Class Size:

	NUMBER OF PUPILS	
	Minimum	Maximum
LEARNING DISABLED - Special Class (Central Nervous System Impaired)		
Elementary	6	15
Secondary	6	15
Resource Program	10	30
SPEECH HANDICAPPED		
Speech and Hearing Therapist (caseload)	--	75
HEARING IMPAIRED		
Preschool	4	6
Elementary	6	9
Secondary	8	12
EDUCABLE MENTALLY HANDICAPPED		
Special Class - Elementary	10	15
Special Class - Secondary	10	15
TRAINABLE MENTALLY HANDICAPPED		
Elementary	10	15
Secondary	10	15
PHYSICALLY HANDICAPPED		
Special Class (C.A. spread less than 6 years)	10	15[1]
Special Class (C.A. spread more than 6 years)	10	12
Special Class - Severely Physically Handicapped	10	12[2]
EMOTIONALLY DISTURBED		
Special Class - Elementary	6	12
Special Class - Secondary	6	12
VISUALLY HANDICAPPED		
Special Class - Elementary	10	12
Special Class - Secondary	10	12
BLIND		
Special Class - Elementary	10	12
Special Class - Secondary	10	12

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[1] Teacher aide recommended.

[2] Should be reduced when some children are in wheelchairs, etc.

PRIVATE

Statutes contain no specific provisions for the handicapped in this area

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Provisional Professional (Certificate No. 5)

valid grades 1-12 -- bachelor's degree including general education (40), professional education (20-28) student teaching in area, specialization (21-52)

Eligibility for Permanent Professional

master's degree and 5 years experience or on third renewal

FACILITIES

Statutes contain no specific provisions for the handicapped in this area

STATE PROFILE

WISCONSIN

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The legislature shall provide by law for the establishment of district schools, which shall be nearly uniform as practicable, and such schools shall be free and without charge for tuition to all children between the ages of four and 20 years, and no sectarian instruction shall be allowed therein." **(Art. I, Sec. 3, Wis. Const.) (L)**

Compulsory Attendance Law: Children between the ages of seven and 16 are subject to the compulsory attendance laws of the state. **(Sec. 40.77 WSA) (L)**

Physically handicapped children eligible for attendance at a special class or special school are also subject to the compulsory attendance requirements. **(Sec. 115.79 WSA) (L)**

If it appears, by affidavit to any county judge, that a blind or deaf child between the ages of six and 21 is being deprived of a suitable education because of the failure of the person having the care and custody of the child, the judge will order the person to bring the child to him. If the allegations of the affidavit are denied, witnesses will be subpoenaed, and he will hear testimony. If the allegations are admitted or established, the judge may order the child sent to the school for the visually handicapped or for the deaf or to some class or other school for instruction, but the order cannot make a direct charge for the class or school against any county. **(Sec. 115.54 WSA) (L)**

Policy: It is the policy of this state to provide, as an integral part of free public education, special education sufficient to meet the needs and maximize the capabilities of all children with exceptional educational needs. Furthermore, it is the policy of this state to ensure that each child who has exceptional education needs is provided with the opportunity to receive a special education at public expense suited to his individual needs. To obtain this end, the legislature recognizes the necessity for a flexible program of special education and for frequent re-evaluation of the needs, capabilities and progress of a child with exceptional educational needs. **(115.377, Sec. 1 WSA) (L)**

The provisions relating to compulsory school attendance apply during the school term to children with exceptional educational needs and may be satisfied by attendance at special education programs operated by a school district, county handicapped children's education board, board of control of a cooperative educational service agency, state or county residential facility, or private special education service. **(Sec. 115.82 WSA) (L)**

Responsibilities: The legislature recognizes that it is the responsibility of the school district in which a child with exceptional needs resides to ensure that the child is able to receive an education at public expense which is tailored to his needs and capabilities. Special assistance, services, classes or centers shall be provided whenever necessary.

Preference is to be given, whenever appropriate, to education of the child in classes along with children who do not have exceptional educational needs. Where it is not desirable to educate the child who has exceptional needs with children who do not have such needs, the child shall be provided with whatever special education is appropriate. **(115.377, Sec. 1 WSA) (L)**

Free public education for all children is the primary responsibility of local public school systems under Article X, Section 3, of the Wisconsin Constitution. If local school systems are unable or refuse to provide the facilities or programs, the responsibility shifts to the State. *State ex. rel. Beattie v. Board of Education*, **(1919) 169 Wis. 231, 233, 234-235, 172 N.W.** 153 qualified the specific right to a free education for all children. This court ruled that attendance in a school may be barred if the child's attendance "is harmful to the best interests of the school." The excluded child, however, does not lose all rights to a free public education. The local school system is obligated to educate the excluded child if the child is educable.

A local school has the power to suspend or exclude a child if: (1) admitting the child would be detrimental to the best interests of the school, and (2) the exclusion is not done in an arbitrary and unreasonable matter. There must be "a material infringement upon the rights of other children" before the board can exclude a child, however. No child forfeits the right to free public education because of any form of misconduct.

The Wisconsin constitution and statutes do not require a district to establish special education classes or facilities to children who are excluded. However, "this would constitute one means of preserving the mentally handicapped child's right to a free public education." A parent cannot comple a school system to establish a program for their excluded child. If facilities or programs are not available, money could be provided by the district for the child to go to another district with facilities or to a private school. A reasonable alternative must be provided.

Children residing in a state, private or public institution for treatment have their educational right restricted. "No guidelines can be established regarding any duty to provide an educational opportunity." The individual institution retains considerable discretion as to the type of educational program, as it is assumed these children have special programs. **(Op. Att'y. Gen., April 13, 1967)**

A school system cannot be compelled to pay the cost of tutoring a child. The district must only provide a reasonable educational opportunity to all children. **(Op. Att'y Gen., April 13, 1967)**

In *Marlega v. Milwaukee Board of School Directors*, plaintiff is Douglas Marlega and defendant is board of school directors of Milwaukee's Public Schools. It is alleged that plaintiff was excluded on medical grounds without any justification given to parents or a due process hearing. A temporary restraining order was sought to reinstate plaintiff in school, to require a due process hearing, and to prevent schools from excluding children for medical reasons without due process hearing. On March 16, 1970, the court ruled that a child cannot be excluded without a hearing. The court approved the school plan for handling medically excluded children September 17.

Panitch v. State of Wisconsin is a class action suit with Mindy Linda Panitch, a multi-handicapped, educable child, representing the class. The state of Wisconsin, local school districts, and the department of public instruc-tion are defendants. At issue is the state statute allowing handicapped children to attend special schools outside Wisconsin. However, this is limited to public institutions for financial reasons and it is alleged that plaintiff is denied equal protection since appropriate programs are not available in-state. It is requested that plaintiff and her class be provided appropriate free public education. The case was originally filed August 14, 1972. An amended complaint was filed in December requesting an individualized written program for each child within 45 days. The new statute was put into effect August 8, 1973. On August 27, an amended complaint was filed by plaintiff alleging continued of education and due process violations.

In *Doe v. Board of School Directors,* plaintiff is 14-year old John Doe, a mentally retarded student repre-senting the class similarly situated. Defendant is the Milwaukee Board of School Directors. It is alleged that plaintiff was classified as mentally retarded by school psychologist and therefore eligible for special placement. However, he was put on a waiting list and attorneys allege violation of equal protection clause of the 14th Amendment. Temporary order is sought requiring immediate appropriate placement of plaintiffs and also order enjoining defendant from maintaining a waiting list. A temporary injunction was ordered and plaintiffs were to be placed within 15 days. This 1970 order is still in effect. (lawsuit)

POPULATION

Definitions "Child with exceptional educational needs" means any child who has a mental, physical, emotional or learning disability which, if the full potential of the child is to be attained, requires educational services to the child to supplement or replace regular education. Children with the following conditions, in addition to children with such other conditions as the state superintendent determines, may require educational services to supplement or replace regular education: (a) physical, crippling or orthopedic disability; (b) mental retardation or other de-velopmental disabilities; (c) hearing impairment; (d) visual disability; (e) speech or language disability; (f) emotional disturbance; (g) learning disability; (h) pregnancy; (i) any combination of conditions named by the state superin-tendent or enumerated above. **(115.76, Sec. 3 WSA) (L)**

"A 'special learning disabled child' is defined as one who has a primary and significant discrepancy between ability and achievement associated with suspected or known neurological handicap." **(R)**

"A 'hearing impaired child' is any child with a hearing loss which is handicapping educationally and/or develop-mentally. This term includes children who may be classified as deaf, hard of hearing, deafened, auditorially handi-capped, etc." **(R)**

"A 'deaf child' includes the child who, because of some pathological or functional cause, cannot attain proficiency in speech without special instruction and training." **(R)**

"A 'speech handicapped child' is one who is not functioning adequately as a learner because of a verbal communi-cation problem."

The legislature, in order to enact laws, may make reasonable classifications of handicapped children. The local school boards may broaden or restrict the legislative programs established for the classified children as long as the variations are reasonable. **(Op. Att'y. Gen., April 13, 1967)**

Age of Eligibility A local school system cannot refuse to enroll a child until the age of 8 or 9 as this violates Article X, Section 3 of the Wisconsin Constitution. No child can be discharged before the age of 20, either, unless the student has received a diploma having completed the primary and secondary education. A parent cannot compel a school system to enroll a handicapped child at an earlier age than established for regular children. **(Op. Att'y. Gen., April 13, 1967)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Screening Pursuant to any standards adopted by the state superintendent under s. **115.78 (6)**, the school district shall screen each child when the child first enrolls in a public school in the school district in order to determine if the child has exceptional educational needs. **(115.80, Sec. 2 WSA) (L)**

A parent, physician, nurse, social worker or administrator of a social agency who has reasonable cause to believe that a child brought to him for services has exceptional educational needs shall report the case of any such child and any other information required to the school board of the district in which the child resides or to the division for handicapped children, except as provided below.

A person required to be certified or licensed under s. **115.28 (7)** employed by the school district in which a child attends public school and who has reasonable cause to believe a child has exceptional educational needs shall re-port such child and any other information required to the school board.

Before any report is made, the person making the report shall inform the child's parent that the report will be made. **(115.80, Sec. 1 WSA) (L)**

Assessment and Placement A multidisciplinary team shall be appointed by the school board and composed of two or more persons skilled in assessing [illegible] [illegible] programming [illegible] members to the team and may require that there be additional members. The number and specialties of additional members may depend on the exceptional educational needs which the particular child is believed to have.

The multidisciplinary team shall, with written parental approval, examine any child who has attained the age of three years and who, as a result of the school district's screening or who is referred to it by a parent as a result of an individual's report to the school board, is reasonably believed to have exceptional educational needs.

The multidisciplinary team shall [illegible] recommend a child for a special educa-tion program [illegible]

The team shall recommend a child to the school board for special education if it deems it in the best interests of the child, except that a pregnant girl shall be recommended for special education only if she has not graduated from high school, is under the age of 21, and if she and her parents consent that she be recommended for special education.

If the multidisciplinary team recommends a child for special education, it shall also recommend to the school board an educational program suited to the individual child's needs. If the educational program recommends instruction at the home, hospital or other location of the child, there shall be a physician's statement in writing that the child is unable to attend school. **(115.80, Sec. 3 WSA) (L)**

Annually, the school district shall require a report, on forms prepared by the department, from the teachers of each child who has attained the age of three years and who is receiving special education under s. 115.85 or in a state or county residential facility supervised under s. 115.76 (4). The report shall state the teacher's assessment of the child's progress in the past year and the teacher's recommendation for further education of the child. **(115.80, Sec. 4 WSA) (L)**

Each child who has attained the age of three years and who is receiving special education under s. 115.85 (2) or in a state or county residential facility supervised under s. 115.76 (4) (d) shall be re-examined by a multidisciplinary team at least once every three years **(115.80, Sec. 5 WSA) (L)**

A child's parent may appeal to the school board a decision relating to special education for the child if:

1. Appeal is filed within four months after the school district clerk has mailed the notice of placement.
2. Appeal is filed within four months after the school district clerk has mailed the notice of removal.
3. The parent believes the local school board has placed the child in a special education program which does not satisfactorily serve the child's needs.
4. The child has not been placed in a special education program and the parent believes that such placement would benefit the child.

No more than one appeal under 3 and no more than one appeal under 4 may be initiated in any school year.

Upon receipt of a recommendation for special education from a multidisciplinary team under s. **115.80**, the school district clerk of the district in which the child resides shall immediately mail to the child's parent a notice of the recommendation and a brief statement of the reasons for the recommendation.

When a decision is made under s. **115.85 (2)** to place a child in a special education program, the school district clerk of the district in which the child resides shall immediately mail to the child's parent a notice of the decision and a brief statement of the reasons therefore.

Whenever a decision is made by a school board to remove a child with exceptional educational needs from an educational program in which such child is currently enrolled, the school district clerk of the district in which the child resides shall mail to the child's parent a notice of the decision and a brief statement of the reasons therefore.

The notice of placement or program change shall state that a hearing before the school board or a person appointed by it may be had if requested in accordance with procedures established by the department and set forth in the notice.

A change in the program or status of a child with exceptional educational needs shall not be made within the period afforded the parent to request a hearing nor, if such hearing is requested, before the school board issues a decision, unless a program change is made with the written consent of the parent. If the health or safety of the child or of other persons would be endangered by delaying the change in assignment, the change may be made earlier, by order of the school board hearing the case, but without prejudice to any rights that the child or parent may have.

A parent shall have access to any reports, records, clinical evaluations or other materials upon which a decision relating to the child's educational program was wholly or partially based, or which could reasonably have a bearing on the correctness of the decision. At any hearing held under this section, the parent may determine whether the hearing shall be public or private, examine and cross-examine witnesses, introduce evidence, appear in person, and be represented by an advocate. The school board shall keep a full record of the hearing. A detailed summary is given to the parent if requested.

ADMINISTRATIVE RESPONSIBILITY

The state superintendent is responsible for establishing requirements for the courses, qualifications of teachers, coordinators, social workers, and school psychologists, and the plan for organizing and maintaining special schools, classes, centers, and other services. **(Sec. 115.80 WSA) (L)**

The division for handicapped children is subject to the direction of the state superintendent. The administrator of the division, appointed by the state superintendent, has the status of assistant superintendent. The administrator, under the direction of the state superintendent, is responsible for services for handicapped children under the jurisdiction of the state superintendent and for the school for the deaf and the school for the visually handicapped. The administrator is responsible for appointing qualified personnel to perform the duties of the division and for auditing expenditures for services for handicapped children. He is responsible for the elementary and high school education of physically handicapped children under age 21 and for supervision of special education facilities provided the mentally handicapped through day classes. **(Sec. 115.77 WSA) (L)**

Federal aid for special programs for handicapped children will be given to the division for carrying out plans approved by the federal agencies supervising such aid. **(Sec. 115.77 WSA) (L)**

The department of health and social services is responsible for programs in state institutions for the mentally retarded and emotionally disturbed. **(L)**

A school board, board of control of a cooperative educational service agency or, upon authorization of the county board, a county handicapped children's education board may:

1. Subject to approval by the division, establish, maintain, expand, reduce or discontinue a special education program, including special physical or occupational therapy services, for children with exceptional needs;
2. Employ, for a special education program, either full or part-time certified teachers, certified coordinators of special education, certified school social workers, certified school psychologists, paraprofessionals, certified consulting teachers to work with any teacher of regular education programs who has a child with exceptional educational needs in a class, and any other personnel approved by the department; and
3. Provide in-service training for any teacher who has a child with exceptional educational needs in a class, and any other services approved by the department. **(Sec. 115.83 WSA) (L)**

The school board, board of control, or county handicapped children's education board maintaining special education programs or other services shall report annually to the department, and at such other times as it directs, such information as it requires. The report shall include the number of pupils instructed or provided service, their residence and the period of time each was instructed or otherwise served during the school year. Annually [illegible] shall submit to the department an itemized statement on oath of all receipts and disbursements on account of [illegible] special education programs or other services during the preceding school year.

Each school district shall ensure that appropriate special education programs are available to children with exceptional educational needs who have attained the age of three years and who reside in the school district.

A school district may provide special education for preschool children under the age of three years, and instruction for their parents. Such special education shall be subject to the approval of and shall comply with [illegible] established by the state superintendent.

The school board shall submit to the division any information it requests concerning special education [illegible] county facilities supervised by the division under s. **115.77 (3) (d)** and shall advise the superintendent [illegible] facility. **(See. 115.85 WSA) (L)**

Any county board may determine to establish a special education program for children with exceptional educational needs for school districts in the county. The program may provide for one or more special schools, classes, treatment or instruction centers or any other service authorized under s. **115.83** for children with one or more [illegible] of exceptional educational needs. A school district shall be included under such county program only [illegible] approved by formal action of the school board of the district. When the county board determines [illegible] a program, it shall create a board to be known as the "Handicapped Children's Education Board".

The board shall consist of three or five persons, as determined by the county board, elected by the [illegible] or appointed by the chairman of the county board, as the rules of the county board direct. Board members shall be electors selected from that part of the county participating in the program and shall be representative of the area the board serves. The board may include school board members, county board members, and other electors. Board members shall hold office for a term of three years, except that the terms of office of members of the [illegible] shall be three years, two years and one year. Board members shall receive compensation and reimbursement [illegible] mileage in an amount fixed by the county board, but not more than that of county board members.

The board annually shall elect one member as chairman and one as secretary. The county treasurer [illegible] board treasurer but shall not be a member of the board.

The board shall appoint an advisory committee whose membership includes school district administrators [illegible] representative of the area the board serves.

Upon authorization of the county board, application for the establishment of a program or any [illegible] shall be made by the board to the division. The application shall state whether the program or part will [illegible] the county at large or only to certain school districts.

The board shall have charge of all matters pertaining to the organization, equipment, operation and maintenance of such programs and may do all things necessary to perform its functions, including, without limitation because of enumeration, the authority to erect buildings subject to county board approval and employ teachers and other personnel. The board shall prepare an annual budget which shall be subject to approval of the county board under **s. 65.90** and shall include, without limitation because of enumeration, funds for the hiring of staff, [illegible] materials, supplies and equipment, and the operation and maintenance of buildings or classrooms. (115.86 **WSA) (L)**

The school board, after consultation with the multidisciplinary team and after the parent has [illegible] in writing, shall place in an appropriate special education program a child who has been recommended for special education by a multidisciplinary team and who resides in the school district. The board may delegate this responsibility in such manner and to such person as it deems appropriate, including the multidisciplinary team.

If the school district, the county in which the child resides, or the cooperative educational service agency for the school district in which the child resides operates an appropriate special education program, the child shall be placed in such program.

If an agency enumerated in par. (a) does not operate a special education program which is appropriate for the child's needs, the child shall be placed in a program operated in this state by a public agency as near as possible to the place where the child resides. **(See. 115.83 WSA) (L)**

Any child may be excused by the school board because he is temporarily not in proper physical or mental condition to attend school or his education program under s. **115.85 (2)**, but he may be expected to return to his program upon termination of his illness or condition. The certificate of a reputable physician, reputable licensed psychologist or Christian Science practitioner living and residing in this state, who is listed in the Christian Science Journal, shall be sufficient proof of the physical or mental condition of the child and of the expectations for the child upon termination of his illness or condition. An excuse under this subdivision shall be in writing and shall state the time period for which it is valid, not to exceed 30 days.

Any child may be exempted for good cause by the school board of the district in which the child resides, except that good cause may not be based upon the child's exceptional educational needs as [illegible] **115.76 (3)**. The school district clerk shall mail notice of such action to the parent or guardian of the child. A parent or guardian of an exempted child may appeal the exemption to the state superintendent. Within [illegible] the decision of the state superintendent, the parent or guardian may appeal the decision to the circuit court of the county in which the school is located. **(118.15 WSA) (L)**

If a child's parent believes the diagnosis or evaluation of the child as shown in the [illegible] available to him is in error, he may obtain an independent examination and evaluation of the child and have the report presented as evidence at the hearing. If the parent is financially unable [illegible] the school district shall reimburse the parent for the reasonable expenses of the examination and evaluation.

The school board shall hold a hearing within [illegible] days of appeal and shall issue a decision based upon the hearing record and the recommendation of the multidisciplinary team within 30 days of the close of the hearing. If no decision is made by the school board within the 30 day period following the close of the hearing, the decision appealed from shall be deemed affirmed.

Within 30 days after the decision of the school board, the parent may appeal [illegible] to the state superintendent. The state superintendent shall issue a decision based upon the [illegible] of the multidisciplinary team within 30 days of appeal. If no decision is made by the [illegible] within the 30 day period following the close of the hearing, the [illegible]

The State Superintendent of Public Instruction must approve the transportation provided handicapped children. Transportation to handicapped children cannot be denied by the superintendent in an arbitrary or capricious manner. The refusal must be well documented. **(Op. Att'y Gen., May 25, 1971)**

PLANNING

There is created in the department of public instruction a council on special education to consist of 15 members appointed by the state superintendent for three year terms. [illegible]

persons who do not have children with exceptional educational needs [illegible] districts, county handicapped children's education boards, cooperative educational service agencies. At least five members of the council shall be parents or guardians of a child with exceptional educational needs, at least one member of the council shall be a school board member, at least one [illegible] tion, and at least one member shall be a certified teacher of special education. **(115.77, Sec. 1 WSA (L))**

The state superintendent shall consult with the council on special education with regard to:

1. all proposed department or division policies and rules relating to the education of children with exceptional educational needs;
2. new special education programs, expansions, reductions or terminations of existing special education programs under s. **115.77 (4) (b) and (c)**;
3. the state plan required under s. **115.78**;
4. any other matters upon which the state superintendent wishes the council's opinion.

The council may report biennially to the legislature on the progress made [illegible] and plan tion in the state and any other information it deems desirable, and the council may [illegible] reports and statistics kept by the [illegible] matters concerning children with exceptional educational needs. **(115.79, WSA) (L)**

The state superintendent shall annually write and make public a state plan for the education of children with exceptional educational needs. The state plan shall include:

1. The number and [illegible] of all children who reside in the state [illegible] with exceptional educational needs.
2. A listing of all public and private special education programs available in the state, the number of children attending each special education program pursuant to s. **115.85 (2)** or supervised under s. **115.77 (3) (d)**, and the state aid given to each program so attended or supervised.
3. A statement of the space and facilities available through public and private special education programs to provide instruction and other services for children with exceptional educational needs.
4. An analysis of the present distribution of responsibility for special education between the state, school districts and other governmental units.
5. Identification of the specific goals of each type of special education program in which children are enrolled pursuant to s. **115.85 (2)** or provided by a state or county facility supervised under s. **115.77 (3) (d)**.
6. Standards for the screening, identification and educational programs for children with exceptional educational needs.
7. A five year projection of the special education needs of children who reside in this state.
8. Recommendations for changes in the law and administrative procedures to meet the special education needs stated in the plan. **(115.78, WSA) (L)**

Annually, on or before August 15, each school board shall report to the department such information as it requires, including the following:

1. The total number of children who reside in the district and who have been placed in special education programs under s. **115.85 (2)**, the exceptional educational needs of each such child, and the school attended or special education received by each such child. The report shall also specify the number of children with exceptional educational needs who are known to the school district and who are under the age of three years and the exceptional educational needs of each such child.
2. A description of the screening process for exceptional education needs provided under s. **115.80 (2)** for each child who enters public school in the district.
3. A description of the special education programs in which children who reside in the district have been placed, the number of pupils attending each, and the qualifications of the staff of each such special education program.
4. An evaluation, in terms of the goals identified under s. **115.78 (5)**, of the progress made by each special education program in which children who reside in the district are placed.
5. An evaluation of the progress made by each child who resides in a facility operated by the state or a county who has attained the age of three years and whose parent resides in the district and a statement of the expected duration of the child's stay in such facility.
6. Plans for new, expanded, or reduced public school special education programs or for the discontinuation of any such program or part of such program. **(115.85, Sec. 3 WSA) (L)**

Of the members first appointed to the council on special education under section **15.377 (4)** of the statutes as created by this act, [illegible] for terms of one year, five for terms of [illegible] three years. Successors shall be appointed in accordance with section **15.377 (4)** of the statutes.

FINANCE

Any school board, board of control, or county handicapped children's education board maintaining an educational program for the handicapped must annually report to the state superintendent and at any other times as he directs the information he requires.

The report must include the number of children instructed or provided services, their residence, and the period of time each was instructed or otherwise served. Each board will annually submit to the state superintendent an itemized account of all receipts and disbursements for special education. **(Sec. 115.80 WSA) (L)**

If after receipt of the reports from the administering units, the state superintendent is satisfied that the special school, class, center, or other service maintained during the preceding year has been in accordance with law, he shall certify to the department of administration that each receive an amount equal to 70% of the amount expended during the preceding year for salaries of the qualified personnel, transportation, board and lodging of resident children, special books and equipment, and other expenses approved by the state superintendent. Board or lodging and transportation between the boarding home and school provided to nonresident handicapped children is reimbursed 100%.

The department of administration shall pay such amounts to the county, agency and school district from the appropriation under s. **20.255 (1)(d)**. The amount of aid paid to any county, agency or school district from the appropriation shall be reduced by any amounts received by that county, cooperative educational service agency or school district under this subsection for the same school year.

Salaries of coordinators of special education, school social workers or school psychologists who have not attained the senior level shall not be reimbursable under this subsection.

Salaries of senior level school psychologists and senior level school social workers shall be reimbursed at 70% without regard to whether they are employed in a program for handicapped children. Salaries of senior level school psychologists and senior level school social workers shall be reimbursed at 70% if the school psychologist or social worker spends all of his time as a part of a multidisciplinary team under s. **115.80 (3)** or working directly with or on behalf of a child who has been placed in a special education program under s. **115.85 (2)**. Such salaries shall be reimbursed at 70% if the school psychologist or social worker spends all of his time as a part of a multidisciplinary team under s. **115.80 (3)** or working directly with or on behalf of a child who has been placed in a special education program under s. **115.85 (2)**. The school district, county handicapped children's education board or cooperative educational service agency shall include in the report under s. **115.84** any information required by the state superintendent relating to use of a school psychologist or school social worker. **(Sec. 115.88 WSA) (L)**

If upon receipt of the report under s. **115.84** the state superintendent is satisfied that the transportation of children with exceptional educational needs has been maintained during the preceding year in accordance with the law, he shall certify to the department of administration in favor of each county, cooperative educational service agency or school district transporting such pupils 70% of the difference between the amount expended for such transportation and the amount of aid specified in s. **121.58 (2) or (4)**, whichever is applicable. The department of administration shall pay such amounts to the county, agency or school district from the appropriation under s. **20.255 (1)(d)**. This subsection applies to any child attending regular classes who requires special or additional transportation. This subsection shall not apply to any child with exceptional educational needs attending regular or special classes who does not require any special or additional transportation.

There shall be paid the amount expended for board and lodging and transportation between the boarding home and the special education classes of nonresident children under s. **115.85 (2)** in the special education program. The department shall certify the full amount to the department of administration which shall pay such amount from the appropriation under s. **20.255 (1)(d)** to the school district, cooperative educational service agency, county handicapped children's education board, state agency of another state or private, nonsectarian special education service which operates the special education program while providing board, lodging and transportation. **(Sec. 115.88 WSA) (L)**

From the appropriation under s. **20.255 (1)(d)** there shall be paid the full cost of salary and travel expenses, in amounts determined in advance by the state superintendent, to school districts for providing special education outside the school district of employment. **(Sec. 115.88 WSA) (L)**

Any school district, board of control of a cooperative educational service agency, or county handicapped children's education board whose application under s. **115.77 (4)** to establish or expand a special education program has been authorized may request, and upon a determination of need by the state superintendent, shall receive in advance, for the first year of operation: (a) for a new program, 75% of the estimated amount of aid which will be paid under sub. **(1)** for the first year, and (b) for an expanded program, 75% of the difference between the estimated amount of aid which will be paid under sub. (1) for the first year and the amount of aid which the program received for the previous year under sub. (1). **(Sec. 115.88 WSA) (L)**

If after a public hearing in the school district, the state superintendent finds that a school district has not provided programs for children with exceptional educational needs as required by s. **115.85 (1) and (2)**, he shall make findings to that effect, including a finding that the school district has denied equal educational opportunities to children with exceptional educational needs.

After the state superintendent has found that a school district has denied equal educational opportunities to children with exceptional educational needs, he may make recommendations to the school district to remedy the denial and may require the school district to submit a remedial plan incorporating such recommendations.

If after consultation with the school board, the state superintendent finds that the plan has not incorporated his recommendations or that its implementation has been inadequate to remedy the denial of equal educational opportunities, he shall request the attorney general to proceed against the school district for injunctive or other appropriate relief.

[illegible] 1, 19[illegible], the state superintendent may annually waive the application to any school district of such provisions of this subchapter as he deems necessary, except that application of s. 115.88 [illegible] waived. (115.89 WSA) (L)

If, upon receipt of the report under s. 115.80 (3), the state superintendent [illegible] that any children enrolled and participating in a special [illegible] program provided by a county handicapped children's education board under this subchapter and not counted as pupils enrolled under s. 121.05 [illegible] elementary or high school [illegible] from those services, he shall certify to the department of administration from the appropriation under s. 20.255 (1) (f) in favor of the county handicapped children's education board [illegible] those services $88 per pupil enrolled. Enrollment for aid purposes shall be determined in accordance with s. 121.05. Aids payable under this subsection shall take effect with the fiscal year beginning [illegible] (Sec. 121.135 WSA) (L)

State aid shall be paid to each school district or county handicapped children's education board operating summer

classes, providing that annually on or before October 1, the school district clerk or chairman of the county handicapped children's education board shall file with the department a report stating the number of pupils enrolled in summer classes. In computing the number of pupils enrolled in summer classes the total number of [illegible] periods in which each pupil is enrolled, as determined by multiplying the [illegible] number of periods in each day in which the pupil is enrolled by the total number of days in which enrolled, shall be divided by [illegible] The quotient represents the proportion of a pupil enrolled for which the school district or county handicapped children's education board shall be paid state aid.

For the purpose of computing state aid, the total number of pupils enrolled in summer classes [illegible] par. (b) shall be added to the number of pupils enrolled in the school district as reported under s. 121.05 or 115.84 where applicable, or enrolled in a program operated by a county handicapped children's education board as reported under s. 115.84. For nonresident high school pupils in summer classes school districts shall be paid the amounts set forth in ss. 121.09 (3), 121.10 (3), 121.12 (3) and 121.13 (3). For nonresident [illegible] a substantial equivalent of a high school education, the county handicapped children's education [illegible] amounts set forth in s. 121.135. (Sec. 121.135 WSA) (L)

If a county maintains an institution in which children are received for care, and if such institution maintains the educational facilities required to be provided by a common school district, the county shall [illegible] ss. 115.88 and 121.08 to 121.13. The educational facilities in such institutions shall be [illegible] department and the school district in which the institution is located. (Sec. 121.16 WSA) (L)

Every school board shall provide transportation for children with exceptional educational needs, as defined in s. 115.76 (3), to any public or private elementary or high school, to the Wisconsin school for the [illegible] or the Wisconsin school for the deaf, or to any special educational program for children with exceptional educational needs sponsored by a state tax supported institution of higher education, regardless of distance, if the request for such transportation is approved by the state superintendent. Approval shall be based on whether or not the child can walk to school with safety and comfort. Section 121.53 shall apply to transportation provided under this subsection. (Sec. 121.54) (L)

A school board, a county handicapped children's education board, or a cooperative educational service agency may provide transportation regardless of distance for children with exceptional educational needs who attend a summer special education program under s. 115.83 (4), if a request for such transportation is approved by the state superintendent. Approval shall be based on whether or not the child can walk to school with safety and comfort. Section 121.53 shall apply to transportation provided under this paragraph. (Sec. 121.54 WSA) (L)

State aid for approved transportation under s. 121.54 (3) shall be paid on the same basis as it is paid for transportation of children who do not have exceptional educational needs, except that state aid shall be paid for such approved transportation of less than two miles at the rate of $24 per school year per pupil. Such state aid shall be supplemented by the state under s. 115.88 in an amount not to exceed the full cost. (Sec. 121.58 WSA) (L)

A school district which provided board and lodging or housing under s. 121.57 (2) in lieu of transportation shall be paid state aid for such board and lodging or housing at the rate of not more than [illegible] per week of five days for each pupil so boarded and lodged or housed, but not to exceed [illegible] of the cost. For children with exceptional educational needs, such state aid shall be supplemented by the state aid under s. 115.88 in an amount not to exceed the full cost of such board and lodging.

State aid for approved transportation under 121.54 shall be paid on the same basis as it is paid for children who do not have exceptional educational needs, except that state aid shall be paid for such approved transportation of less than two miles at the rate of $4 per pupil. Such state aid shall be supplemented by state aid under s. 115.88 (2).

The state pays the tuition for handicapped children, including the mentally retarded, emotionally disturbed, and epileptic who are placed in foster homes while attending the public schools of the state. (Sec. 121.79 WSA) (L)

If a handicapped child residing in a district maintaining a special school, class or center for children with his handicap attends a special school, class or center in another district, tuition will be charged to his parent or guardian unless the state superintendent and the school district administrator have approved the transfer. If the state superintendent and school district administrator approve the transfer in order to serve the best interests of the child, tuition will be paid by the school district of residence. (Sec. 115.82 WSA) (L)

One half of the cost of home instruction for physically or mentally handicapped children will be paid by the school district of the child's residence if the district initiates the program, or one half by the state if the county initiates the program. The maximum state payment may not exceed $300 per school year. [illegible] this section are considered as being in attendance in the school district of their residence. (Sec. 115.84 WSA) (L)

Non-resident children attending [illegible] programs operated by a handicapped children's [illegible] school district [illegible] tuition [illegible] the basis of [illegible] the number of children in each part of the program [illegible] together the total [illegible] the actual cost of education and [illegible] federal, state, and county aid and dividing this amount by the number of children in [illegible] not maintaining an appropriate special school, class or center, and (b) [illegible] an appropriate [illegible] the county will be charged tuition when the child attends a special school [illegible] previously. Before August [illegible] each [illegible] tuition [illegible] with the clerk of the county [illegible] handicapped child [illegible] tuition.

The [illegible] shall contain the name, age, date of entrance [illegible] year of each child, the amount of tuition for which the school district [illegible] total amount of tuition due the school district [illegible] from the county [illegible] for the purpose of [illegible] and locality [illegible]

After examining the claims, the county clerk notifies the [illegible] result of the examination. If [illegible] the county [illegible] the Board [illegible] with the county clerk for the expense [illegible] the county clerk shall [illegible] the equalized valuations [illegible] portion of each municipality within the county [illegible] all programs for children with handicaps that are operated by school districts [illegible] Section 115.83 [illegible] the total expenditures [illegible] of all the [illegible] in the county that [illegible] all programs for children with [illegible] school districts under Section 115.83 [illegible]

Each municipal clerk [illegible] from the county [illegible] tax roll for collection. When taxes are collected, amounts must be paid by the [illegible] each school district [illegible] handicapped children [illegible] board.

In counties having a population of [illegible] 500,000 the school district [illegible] handicapped children [illegible] provided previously. Before August [illegible] the [illegible] 500,000 [illegible] the name, age [illegible] the previous school year, the amount of tuition for which the [illegible] the school district [illegible] the school [illegible] other [illegible] paid.

Any [illegible] with a population of 500,000 [illegible] of their school districts [illegible] of other school districts [illegible] tuition and waive all [illegible] (Sec. 117.82 WSA) (L)

If a physically handicapped child [illegible] in a school district other than the [illegible] the [illegible] of transportation [illegible] special class [illegible] and transportation [illegible] special class (Sec. 115.77 WSA) (L)

The appropriation under section **20.255 (1)** [illegible] of the statutes, as affected by the laws of 1973, is increased by $ [illegible] for fiscal year 1973-74 and by $ [illegible] for fiscal year 1974-75 to provide [illegible] the [illegible] of public instruction and [illegible] for fiscal year 1973-74 and $ [illegible] for fiscal year 1974-75 for expenses of the council on special education.

The appropriation under section **20.255 (1)(c)** of the statutes, as affected by the laws of 1973, is increased by $ [illegible] for fiscal year 1974-75 to fund [illegible] instruction under this act.

The appropriation under section **20.255 (1)(f)** of the statutes, as affected by the laws of 1973, is increased by $ [illegible] for fiscal year 1973-74 and by $ [illegible] for fiscal year 1974-75 to provide [illegible] 1973-74 and $ [illegible] in 1974-75 and [illegible] 1973-74 and $2,000 in 1974-75.

The appropriation under section **20.255 (1)(g)** of the statutes, as affected by the laws of 1973, is increased by $1,100 for fiscal year 1973-74 and $1,300 for fiscal year 1974-75 to fund [illegible] under this act.

If the 1973-75 [illegible] school district cost limitation which [illegible] per pupil shared cost increase for each school district for fiscal year 1973-74 or calendar year 1974, such [illegible] shall be computed [illegible] any new or expanded special education programs.

If the [illegible] act [illegible] in conflict with the provisions of [illegible] the provisions of this act shall supersede the conflicting provisions of the budget act.

All families eligible for Title XIX assistance, Aid to Dependent Children, Welfare, Office of Equal Opportunity, etc. should [illegible] the Division for initiation, proper work-up, and [illegible] expended. The Division does not become involved in paying hospitalization costs [illegible] and under [illegible] the parent's ability to pay [illegible] audiologist should be contacted. The complete [illegible] cost of a hearing aid [illegible] audiologist may be paid for by the Division. **(R)**

[illegible] is also available for ear surgery which would improve [illegible] board certified otologist. [illegible] is necessary.

There are no funds available for hospital [illegible] program. **(R)**

[illegible] handicapped children are subject to the approval of the state superintendent [illegible] person who has been a resident [illegible] years preceding application [illegible] may receive aid [illegible] for the purposes [illegible] necessary expenses [illegible] university or [illegible] The state superintendent shall set standards to determine the amount to be paid [illegible] **(R)**

BEST COPY AVAILABLE

The county's establishing and operating a special facility for the handicapped [illegible] is [illegible] by the residents of the county which would have access to the facility [illegible] residents of the county whose handicapped children could not attend. (Op. Att'y Gen., March 22, 1966)

A county [illegible] with a private association to [illegible] handicapped children. The county may, however, accept a gift from [illegible] of a greenhouse [illegible] attached to the [illegible] adults or the operating of the greenhouse by an unauthorized person. The county [illegible] handicapped adults however, and furnish their transportation. The setting [illegible] center for the handicapped [illegible] by the county [illegible] (Op. Att'y Gen., August 17, 1966)

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

County boards may provide programs for handicapped children [illegible] The program may provide for one or more special schools, classes, [illegible] more types of handicapped children. School districts are included [illegible] by formal action of their school board. If the county [illegible] approved [illegible] board to be known as the "Handicapped Children's Education Board." (L)

This board [illegible] persons as determined by [illegible] elected by the county board of supervisors or the chairman, according to the rules of the [illegible] be elected from the [illegible] participating in the program and [illegible] School board [illegible] board member [illegible] will be appointed [illegible] establish programs. [illegible] whether the program [illegible] All matters pertaining to the operation [illegible] the responsibility of the board. [illegible] its functions [illegible] including [illegible] buildings [illegible] employ [illegible] and other personnel. (L)

The county board may [illegible], by resolution, the functions of the handicapped children's [illegible] operative educational service agency [illegible] within the county. However, [illegible] authority to [illegible] the agency board [illegible] school [illegible] and administrative [illegible] (115.86 WSA) (L)

A school board of any district included [illegible] may withdraw from [illegible] of the program with the approval of the state superintendent [illegible] with the [illegible] drawal [illegible] the county program and the affected school district. The withdrawal will be effective only if the school board has the approval of the state superintendent [illegible] part of the program. The effective date of withdrawal must be at the end of the next [illegible] year. [illegible] under this section may be dissolved by the county board, but dissolution may not take [illegible] school term in which the action was taken. After dissolution assets and liabilities [illegible] participated in the program. (115.86 WSA) (L)

The board may provide [illegible] transportation [illegible] participating in special education programs under this section, special education programs [illegible] in special education programs [illegible] private organization within whose attendance [illegible] and which [illegible] more than five miles beyond the boundaries of the [illegible] usually traveled route. (115.86 Sec. 8 WSA) (L)

Handicapped [illegible] preschoolers, residing in a school district, may be admitted to special programs available in any other school district [illegible] and according to available facilities. (L)

The cooperative educational service agencies were organized [illegible] service unit between local districts and the state [illegible] level. Every school district in Wisconsin is included within the area of one of the 19 agencies. The primary charge of the agencies is to provide services which local districts [illegible] cooperate in providing [illegible] educational services. Each of the agencies has a board [illegible] consisting of representatives of the school boards within the agency area. [illegible] committee composed of district administrators of each district in the agency. (R)

Services [illegible] handicapped children and youth by school districts and county [illegible] are also provided by the cooperative educational service agencies (CESA's). Their authority [illegible] local districts or County Handicapped Children's Education Boards (CHCEB's). (R)

Districts vary in the [illegible] they require or desire. There is also a variance in the manner in which different [illegible] CESA agencies. Cooperative educational [illegible] range of services [illegible] usually retained for district and county [illegible] (R)

The CESA [illegible] school [illegible] county [illegible] superintendents, CHCEB's, and other CESA's in providing services. (R)

Services provided by CESA's include [illegible] operation of special [illegible] such programs, supportive [illegible] and supportive services. (R)

The [illegible] part of the [illegible] area of [illegible] board [illegible] (L)

An annual budget prepared by the board and subject to the [illegible] for the hiring of [illegible] and [illegible] [illegible] (R)

Districts withdrawing [illegible] of the district [illegible] (R)

CESA's [illegible] CESA's have no power to levy taxes. (R)

CESA's may receive state aid when they operate special education [illegible]. They may apply directly to the state department of public instruction [illegible] for special classes. (R)

See also Administrative Responsibility and Finance.

SERVICES

A special education program may consist of such special education [illegible] school, special instruction [illegible] at the home or [illegible] or any other special education program approved by the state superintendent.

A special education program may be supplemented by funds [illegible] of the child's [illegible] in the child's education.

A special education program [illegible] by the school board may be [illegible] year.

The salaries, qualifications of teachers, coordinators, social workers, [illegible] and maintaining [illegible] programs and other services shall [illegible] state superintendent. (Sec. 115.83 WSA) (L)

[illegible] special education [illegible] handicapped children [illegible] board may establish special classes [illegible] and [illegible] provide special physical and occupational [illegible] children. [illegible] program may consist of one or more special [illegible] types of handicapped children [illegible] centers for [illegible] handicapped children having an IQ [illegible] of a [illegible] school [illegible]. (Sec. 115.80 WSA) (L)

If [illegible] lives [illegible] (Sec. 115.82 WSA) (L)

School [illegible] preschool [illegible] for preschool deaf children and their parents, and the school for the visually handicapped [illegible] handicapped children [illegible] for preschool children [illegible] proval of the state superintendent and must comply with his regulations. (Sec. 115.82 WSA) (L)

Physically handicapped children unable to attend school, [illegible] education through [illegible] or any other [illegible] by any school board or county [illegible] outside the [illegible].

All sanatoria [illegible] and homes providing care for children [illegible] school authorities [illegible] regular school hours [illegible] in addition to their regular salary. [illegible] cation board operating programs under this section must report to the [illegible] teachers and children involved and the [illegible] cost.

Every school board may provide transportation for handicapped children to any elementary or high school or to the school for the visually handicapped or the school for the deaf, regardless of the district's [illegible] transportation is approved by the state superintendent. Approval is based on whether the child can [illegible] in safety and comfort. (Sec. 121.5[illegible] WSA) (L)

The superintendents of schools may apply to the regents of the University of Wisconsin [illegible] Wisconsin General Hospital for any pupil in the state schools. A physician's [illegible]. Net cost of the hospital [illegible] will be at the rate charged the counties for county patients. [illegible] to the appropriation for [illegible] the school and one-half to the state. Payment for transportation to and from the hospital may be authorized. Superintendents should arrange [illegible] public schools, [illegible] whenever it appears to them that [illegible] advantage to the children. (Sec. 115.53 WSA) (L)

Superintendents of the [illegible] the deaf and blind may arrange for [illegible] any [illegible] state school, a public school, vocational, [illegible] established in [illegible] Public schools and the vocational schools [illegible] for full time [illegible] for part time attendance. (Sec. 115.5[illegible] WSA) (L)

Deaf [illegible] children unable to [illegible] in a special class [illegible] intendent and/or [illegible] within the state at [illegible] to warrant the establishment of a class. (Sec. 115.53 WSA) (L)

All school children [illegible] through this program once every three years. Any child found to have a hearing loss [illegible] tance is available for the [illegible] to assume these costs. (R)

Services of a board certified [illegible] surgeon may be purchased [illegible] be provided [illegible]. (R)

Aid [illegible] person may [illegible] (Sec. 115.5[illegible] WSA) (L)

American Speech and Hearing Association* or hold a valid Wisconsin licensure by the department of public instruction.

This service is restricted to the child whose speech problem is caused by a chronic, physical disability; for example, cleft palate, hearing loss, cerebral palsy. The usual financial eligibility form regulations will be followed. This is an additional service to handicapped children in Wisconsin with speech and language problems of known etiology. **(R)**

An initial, complete speech, hearing and language evaluation must be obtained at a recognized facility or center. A plan of therapy must be submitted by the speech clinician who will carry on therapy.

Progress reports must be sent to the Division for Handicapped Children at six month intervals: (1) for evaluation of the child's current communication needs; (2) for approval of payment to the speech clinician for therapy services rendered; and (3) for consideration of reauthorization of services for an extended six month period.

Authorization will be made for six month periods with renewal if continued therapy is deemed necessary by the Division for Handicapped Children personnel.

A statement (bill) in triplicate must be sent to the Division for Handicapped Children by the speech clinician at the end of each six month period before payment will be made. Payment will be made directly to the authorized speech clinician.

The fee shall be the customary, usual and reasonable hourly rate of therapy time as determined by the advisory committee. If the child is classified as homebound, transportation expense of the speech clinician will be reviewed.

The clinician will be paid on the basis of the number of therapy sessions. Scheduled sessions that are missed may be made up during the six month period.

Equipment and materials for use in therapy will be provided at the clinician's expense.

Financial assistance by the Division for Handicapped Children will terminate when the area schools provide speech correction services for the child or when evaluation by the Division for Handicapped Children personnel indicates that therapy is no longer necessary or of value.

Parents will be responsible for transporting their child to the place of therapy.

The division for handicapped children will contact the parents at three month intervals to determine if the therapy arrangements are practical. **(R)**

The state superintendent's approval of special transportation will depend upon whether the child can walk to school in safety and comfort.

Children enrolled in pre-school programs who are to be transported by other than their parent must conduct themselves in the moving vehicle without endangering other occupants or the driver's ability to safely operate the vehicle. **(R)**

If a handicapped child receives services in a school district other than his district of residence, the division is responsible for making or approving arrangements for transportation to and from home to the special class or to and from his boarding home on school days to the special class. **(R)**

Every school board must provide transportation to any elementary or high school, or to the school for the visually handicapped or the school for the deaf, regardless of the distance, if the state superintendent approves the request for transportation.

Handicapped pupils may be transported to regular or special education programs in private or parochial schools. **(R)**

Daily transportation to the orthopedic school from the boarding home or the child's own home within the city of the school's location is provided by the local school system with state financial assistance for children living or boarding within the orthopedic school district. **(R)**

For children living in their own home but outside the orthopedic school district, the district of the child's residence is responsible for arranging the daily transportation. These arrangements are approved by the department of public instruction through the division for handicapped children. The cost to the district is reimbursed in part by state aid. **(R)**

The bureau of special education of the division for handicapped children's services may provide transportation for 1. physically handicapped children to regular classes; 2. handicapped children to Wisconsin Children's Hospital (financing and approval); and 3. handicapped children to local day care programs when local districts classify these programs as "schools".

The public school may elect to transport handicapped children in early education programs to private school centers and receive special transportation aid from the department of public instruction. **(R)**

Upon the advance approval of the state superintendent, the school board of any district may permit a handicapped child to attend a special school, class or center outside the state. If the child resides in a county having a population of less than 500,000 the county of residence must pay the tuition and transportation in accordance with the procedures established for the payment of tuition by the county under sub. (3). If the child resides in a county having population of 500,000 or more, the school district of residence must pay the tuition and transportation in accordance with the procedure established for the payment of tuition by the school district. **(R)**

A recent opinion from the Attorney General's office date May 25, 1971, reaffirms the department's position that transportation is a local school district responsibility when the child has been declared eligible by the department of public instruction for appropriate preschool services for handicapped children. In the case of enrollment as a nonresident, enrollment size of the operating district's preschool program must permit the child's inclusion in the program. **(R)**

In the state superintendent's approval of transportation of handicapped preschool children the reasonableness of length of the haul from home to school shall be considered. Regular transportation guidelines encourage no more

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*Clinical Certification

Approximately $3,000 should be annually set aside from the appropriations made to the state schools for the deaf and the state school for the blind to help defray the cost of readers for blind or deaf pupils between the ages of 16 and 21 enrolled in public high schools or vocational, technical, and adult education schools in the state. No pupil shall receive aid exceeding $125 per year, nor shall it be granted to any student unless the director of the bureau for handicapped children and the superintendent of the school for the visually handicapped or the school for the deaf agree that it is best for the student to attend the vocational or high school. **(Sec. 115.53 WSA)(L)**

Two field consultants, an educational specialist, and a social worker are responsible for the administration and supervision of programs for the deaf and hard of hearing and the blind and partially sighted in public school day classes and in the state residential schools at Delavan and Janesville. All placements must be approved by the bureau's educational supervisor; thus referrals for services, pre-planning conferences and staffings on individual cases should be initiated with this consultant. Referrals for vocational rehabilitation services at the vocational evaluation center at the Wisconsin School for the Deaf at Delavan should be made through the local rehabilitation counselor to the director of the evaluation and adjustment center. **(R)**

One speech correction supervisor is responsible for the administrative, consultative and regulatory services available for children with speech and language impairments at the LEA, CHCEB and CEA levels of school operation. School services include individual and small group speech therapy, and itinerant and classroom services for children with language impairments. Private speech therapy services are available in areas where caseloads preclude the inclusion of private school pupils on the public school clinician's roster. These requests are made by the local school administrator or the parents directly to these Bureau supervisors. **(R)**

Newest of disability groups, this educational service for children with minimal brain dysfunction, but with average or better than average intellectual potential, is currently administered by the supervisor referred to in 6.15. Referrals for educational community planning for SLD units should currently be made to this individual. This is a rapidly growing program area with considerable local interest in services of this type. **(R)**

The division for handicapped children supervises the Wisconsin School for the Deaf and 15 centers situated in cities throughout Wisconsin where classes for children with hearing impairments are located. The latter constitutes the day school system and ranges from a one-teacher school in Superior to a 29 teacher school in Milwaukee.

Children are sent to these centers after psychological, otological, and audiological assessments have indicated eligibility for these services.

Eligibility standards, as stated in **Section 115.82 (b)**, are the responsibility of the division. No youngster is accepted by the schools unless approved, beforehand, by the division. This is necessitated by commitments for tuition, paid by counties of residence or by school districts within Milwaukee County, transportation and possible boarding home placement. Transportation and boarding home claims are reimbursed in part from state funds.

It is hoped that children will go to the center or school nearest their home, commuting daily if possible. If this is not suitable, a boarding home is provided by the division with the cooperation of local welfare departments. The homes are state licensed and must be acceptable to the parent.

The age at which youngsters are enrolled depends on their maturity, but attendance should be attempted as soon as social and psychological factors are in appropriate ratio. Therefore, approvals are given only after complete information is available.

Day classes are located in elementary and junior high school buildings. In this way, the children can be integrated into some of the regular classes and into the usual life of the school. Such an arrangement gives the child a chance to be with hearing persons in anticipation of his participation in adult society. In school, he has the additional advantage of being helped by the special teacher.

The principle approach to teaching in the day school is called the oral method. That is, speech, lipreading and auditory training are the avenues through which learning takes place. This is in addition to the usual reading and writing.

The division supervises both day and residential schools which makes possible a better coordination of services and enrollment procedures so that the child can be placed in the setting which best meets his educational needs.

Transfers from day schools to the residential school and vice versa are handled by the division in order to ensure an orderly transition. In all original placements, parents' wishes are followed whenever possible, although the division and the schools counsel them regarding transfers.

The Wisconsin School for the Deaf is a boarding school under the direct supervision of a superintendent who is responsible to the director of the department of public instruction.

The school may provide instruction for preschool deaf children and their parents. Such instruction or treatment shall be subject to the approval of, and shall comply with requirements established by, the department. **(115.52 Sec. 7, WSA)(L)**

Itinerant speech correction programs are for children whose speech has been diagnosed by a speech correctionist as deviating or differing from average or normal speech to the extent that it hinders adequate communication and requires specialized instruction for improvement or correction of the handicap. These children attend classes in the regular school program, or special classes, at the same time they are enrolled in speech correction. **(R)**

Special classes for children are for those with a special learning disorder in one area or a limited number of areas of performance or learning. Psychologically, the child's perceptual organization of his environment is impaired. Educationally, the child shows pronounced learning dysfunctions in some areas but not in others. This child may be unable to read, to do arithmetic, to formulate language and speech, to do gross or fine manipulative tasks or any one of various combinations of this nature or others. Behaviorally, the child may show gross extremes from acute hyperactivity to complete withdrawal, causing much difficulty for himself and concern in the classroom. He may not be able to ignore background auditory or visual stimuli. **(R)**

Special classes are for children whose hearing loss is so severe that they are unable to comprehend and learn speech and language even though hearing aids may be useful to some of them. These children generally have a hearing loss of 70 decibels or more in both ears. **(R)**

Special classes are for children who are able to understand and learn speech and language but whose hearing is not sufficient to enable them to learn adequately in the regular school class even with the assistance of a speech correctionist. These children generally have a hearing loss of from 40-70 decibels in the better ear. Those children with a hearing loss of less than 40 decibels may be able to function adequately in a regular class with the assistance of a speech correctionist. **(R)**

For those children on crippled children's rolls who are not able to have speech correction in the local public schools and whose parents cannot financially support private therapy, the division for handicapped children, crippled children's than 45 minutes one way for elementary age nonhandicapped pupils nor one hour for secondary age regular pupils. Even though preschool handicapped pupils would presumably possess less maturity or tolerance for lengthy transportation hauls than regular pupils, the department will tentatively consider approval of transportation contracts up to a one-way haul of one hour's duration. Shorter periods of time than this outside maximum are strongly encouraged. (R)

Transportation arrangements shall be designed to protect the safety and interests of both the preschool handicapped child and other children. In certain instances this may entail special transportation arrangements beyond those normally provided other children in the district. (R)

Transportation may be provided by written contract with private carriers.

Where feasible, parent transportation of preschool handicapped children should be encouraged by the school board of the district of residence, or the county handicapped children's educational board, and such boards must contract with the parent to provide such transportation. It is anticipated that requests for reimbursement by parent transporters shall be reasonable and suggested maximum rate would approximate 10¢ per mile. The resident school district is responsible for providing transportation for such handicapped children and, where parent transportation is utilized for establishing the amount of compensation to be designated in the contract.

Parent transportation is only one mode of transportation for preschool handicapped children and when a parent refuses to transport his preschool handicapped child the district must find other means of transportation.

Physically handicapped children attending an orthopedic school are transported by school buses and taxicabs. (R)

Some school buses used for transporting physically handicapped children have special construction to accommodate wheelchairs. (R)

The state vocational rehabilitation agency may pay costs of transportation for physically and mentally handicapped persons in vocational rehabilitation programs, the amount to be contingent upon financial need. (R)

State reimbursement for parent transportation of handicapped children shall be based on the amount approved in advance by the state superintendent through the division. When daily transportation of deaf, hard of hearing or visually handicapped children to and from a day program is furnished, reimbursement is based on a formula which calls for a sharing of costs between the division for handicapped children and the child's district of residence. (R)

Counties providing transportation and school districts transporting children to special classes in another district may have transportation claims approved on a sliding scale basis based on distances from the home to school. After general aids are paid, a 70% prorata approval is applied to the special transportation aid claim. In these instances, preliminary reports of children to be transported are submitted and are closed out at the close of the school year. These transportation claims are not included in the end-of-year annual financial reports submitted on classes operated. (R)

State general transportation aids are paid initially, followed by 70% of the remaining costs from special aids for handicapped children, providing the actual daily rate does not exceed the following maximum gross daily contract cost:

$1.40 for distance of 0-5 miles
$2.00 for distance of 5.1-10 miles
$2.50 for distance of 10.1-20 miles
$3.00 for distance of 20.1 miles and over (R)

Class Size:	NUMBER OF PUPILS Minimum	NUMBER OF PUPILS Maximum
EDUCABLE MENTALLY HANDICAPPED	10¹	20
Special Class (general - school age)	8	12
Special Class (preprimary - age 4-8 years)		
Special Class (primary - age 7-9 years or 7-10 years where	10¹	12
no preprimary class exists)	10¹	15
Special Class - Intermediate (age 9-12 years)	10¹	15
Special Class (ungraded wide range - age 8-15 years)	10¹	14-16
Special Class - Jr. High (age 13-15 years)	10¹	20²
Special Class - Sr. High (age 16-18)		15³
TRAINABLE MENTALLY HANDICAPPED	5	10⁴
Special Class - fulltime	5	9
Special Class - extended day	12	15
Special Class - with teacher monitor	-	4
Homebound (caseload)		
MULTIPLY HANDICAPPED		3-4
Special Class - Mentally Retarded Deaf		
DEAF		
See "Multiply Handicapped"		

1 Minimum number of students may be allowed to drop as low as 8 for no more than two consecutive years.
2 With substantial integration in other non-academic classes
3 With limited integration
4 Smaller class may be approved on a proportionate prorata

The children at the Wisconsin School for the Blind are entitled to aid under Section 572 (1) of the Wisconsin Statutes at the discretion of the county board. The Wisconsin School for the Blind is not a charitable institution. (Op. Att'y. Gen., April 25, 1918)

Transportation may be provided for handicapped children to attend private schools if the private school falls under the criteria of Chapter 68, Laws 1967 of the Wisconsin Statutes. The school districts paying the transportation costs determine the eligibility of the private school because it must be comparable to training received in a public school.

County handicapped children's education boards cannot authorize the paying of the transportation of children to day care centers. This must be done by the resident school district. (Op. Att'y. Gen., December 18, 1967)

The resident school district must provide transportation for a handicapped child to another district if facilities are not available in the resident district. This transportation must be given to preschool handicapped children also if services are not provided in the home district. Preschool age is between two and five.

The Division for Handicapped Children of the Department of Public Instruction establishes the standards of eligibility for children to attend special facilities within or without the resident district. The transportation aids and eligibility standards include preschool handicapped children. (Op. Att'y. Gen., May 25, 1971)

PRIVATE

The legislature recognizes that it is the right of every parent to provide for his child an education of the parents' choice at his own expense. (15.377 Sec. 1 WSA) (L)

If no public agency in this state operates an appropriate program, the child shall be placed, with the approval of the state superintendent, in an appropriate public program in another state.

To provide a special education program which is appropriate to the child's needs, the school board may, upon approval of the state superintendent and if no equivalent public program is locally available, contract with a private special education service whose governing board, faculty, student body, and teachings are not chosen or determined by any religious organization or for any sectarian purpose.

The school board may place a child with special educational needs in a special education program at home, residence or other location of the child only if there is a physician's statement in writing that the child is unable to attend school, as required in sec. 115.80 (3). (Sec. 115.83 WSA) (L)

Since community day care services, established under Section 51.38 of the Wisconsin Statutes, under the Department of Health and Social Services, are frequently privately operated and serve a number of purposes other than education, local school districts cannot, through financial support, help these programs. Op. Att'y. Gen., December 19, 1967)

A school system cannot contract with a private organization to provide services to the school system for their handicapped children. (Op. Att'y. Gen., April 29, 1972)

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Teacher of Handicapped Children (Certificate No. 9)

completion of 4-year program in school accredited for providing professional major in specific field

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.

STATE PROFILE

WYOMING

February 15, 1974

The State-Federal Information Clearinghouse *
for Exceptional Children
The Council for Exceptional Children
1920 Association Drive
Reston, Virginia 22091

*The work presented herein was performed pursuant to Grant No. OEC 0-182013-3541 (032) from the Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare.

RIGHT TO AN EDUCATION

Constitution: "The right of the citizens to opportunities for education should have practical recognition. The legislature shall suitably encourage means and agencies calculated to advance science and liberal art." **(Art. I, Sec. 23, Wyo. Const.) (L)**

Compulsory Attendance Law: Except as otherwise provided by law, the public schools of each school district in the state shall at all times be equally free and accessible to all children resident therein over six years of age and under the age of 21, subject to such regulations as the board of trustees may prescribe. Each school district shall operate its schools and its classes for a minimum of 175 days each school year. **(L)**

The board of trustees of any school district may suspend or expel any child from the public schools for any reason enumerated by the statutes of this state. The board of trustees may delegate authority to administrative and supervisory personnel to suspend any child for a period not to exceed 10 school days; however, in every such case of suspension or expulsion, oral notice shall be given immediately, if possible, and in addition written notice shall be given within 24 hours, to the parents, guardians, or custodian of the child affected, stating the reason for the suspension or expulsion. **(L)**

No board of trustees may expel any child from school or suspend any child for more than 10 days without an opportunity for a hearing, if requested, in accordance with the procedures of the Wyoming Administrative Procedures Act.

Any decision of the board shall be considered a final decision which may be appealed to the district court of the county in which the school district is located, pursuant to provisions of the Wyoming Administrative Procedure Act. The court may, on application or on its own motion, stay the decision of the board pending appeal, as the best interests of the child appear.

The following is one of the grounds for suspension or expulsion of a child from a public school during the school year: any behavior which in the judgement of the local board of trustees is clearly detrimental to the welfare, safety, or morals of other pupils. **(L)**

The board of trustees of any school district within the state may deny admission to any child who has such a mental or physical disability that based upon a physician's certificate the board believes such child could not reasonably benefit from the programs available or the attendance of such child could be inimical to the health, safety, or welfare of other pupils, however, the board shall make the best possible provision for suitable and adequate education of such child in accordance with the laws of this state. **(L)**

Every parent, guardian or other person having control or charge of any child who is a resident of this state and whose seventh birthday falls on or before September 15 of any year and who has not yet attained his 16th birthday or completed the eighth grade shall be required to send such child to, and such child shall be required to attend, a public or private school each year, during the entire time that the public schools shall be in session in the district in which the pupil resides, provided, that the board of trustees of each school district may exempt any child from the operation of this article when: the board believes that compulsory attendance in school would be detrimental to the mental or physical health of such child or the other children in the school; however, the board may designate at the expense of the district a medical doctor of its choice to guide it and support it in its decision; the board feels that compulsory school attendance might work undue hardship; or the child has been legally excluded from the regular schools pursuant to the provisions of Section 62. **(L)**

The primary responsibility for the enforcement of this article shall be upon the board of trustees of the school district, which shall appoint an attendance officer or officers to carry out the provisions of this article. Said officer shall be paid out of the district treasury such sum as may be provided in the order of appointment. **(L)**

Responsibilities: All school districts having any school age handicapped children shall, subject to the rules and regulations of the state board, provide for appropriate education and training as well as necessary related services for such children. The district which is unable to provide the necessary and appropriate services shall contract with another school district or agency to obtain them. If programs and services cannot reasonably be provided by the district or by inter-district contracts, the state board is responsible for assisting local boards of trustees to arrange for the appropriate educational programs and services inside or outside of the state, subject to the rules and regulations of the state board. **(Sec. 286 Wyo. Stats.) (L)**

Children within an institution have a right to attend the schools in the district where the institution is located without paying tuition. **(AG)**

POPULATION

Definitions: "Each and every child of school age in the state of Wyoming having a mental, physical or psychological handicap or social maladjustment which impairs learning, shall be entitled to and shall receive a free and appropriate education in accordance with his capabilities." **(Sec. 284 Wyo. Stats.) (L)**

Age of Eligibility: Children of legal school age six to 18 are eligible for special education services. If a district operates a kindergarten for normal children, a special program must be provided handicapped five year olds. **(L)**

IDENTIFICATION, ASSESSMENT, AND PLACEMENT

Assessment and Placement: All school districts, subject to the rules and regulations of the state board, are responsible for providing the appropriate diagnosis and evaluation for handicapped children. **(Sec. 286 Wyo. Stats.) (L)**

School districts employ educational diagnosticians, school psychologists, psychological technicians, school social workers, speech therapists, and other personnel to provide evaluations or contract with professionals for these services. **(R)**

Amounts up to $50. per child expended by the district during the current school year by contract for the diagnosis and/or evaluation of a child who is handicapped or who is suspected of being handicapped will be reimbursed; however, any one such service costing over $50 must receive the prior approval of the review panel to qualify for reimbursement under this subsection. **(R)**

ADMINISTRATIVE RESPONSIBILITY

The state board, jointly with the boards of trustees of all school districts is responsible for educating all handicapped children. The state board will adopt rules and regulations to assure that each child receives a free and appropriate education in accordance with his capabilities. **(Sec. 285 Wyo. Stats.) (L)**

The state board of education is responsible for maintaining and operating the state school for the deaf. From funds appropriated for that purpose, the board shall provide adequate staff, equipment and supplies for the operation of the school and may accept gifts or grants or aid from any person. **(Sec. 287 and 288 Wyo. Stats.) (L)**

The state board will have the general supervision of the deaf and blind and all other persons with a physical disability which prevents reading in the normal manner. If funds are available, the board may provide or have provided education and other services necessary to aid these persons help themselves to become and to remain useful citizens of the community. In addition, the board may hire personnel and purchase necessary books, equipment and supplies. **(Sec. 289 Wyo. Stats.) (L)**

PLANNING

Statutes contain no specific provisions for the handicapped in this area.

FINANCE

In allotting classroom units for exceptional or handicapped children, the superintendent will allot one full unit, or a proportional fraction thereof, for each 10 pupils identified as educable mentally retarded and for pupils evaluated or diagnosed as having physical, psychological, or social disabilities which impair learning and one full unit, or a proportional fraction thereof, for each eight trainable retarded children. Allotments will only be made if a certified teacher qualified to teach pupils having the specific disabilities listed above is in charge of the unit. These pupils may not be included in any other classroom unit determination. **(Sec. 231 Wyo. Stats.) (L)**

In addition to other public school aid, unified school districts will receive state aid using a formula. The assessed valuation per classroom unit in the district will be subtracted from the state average. The difference will be multiplied by the number of classroom units within the district, by nine mills and by a sum approved by the state board of education.

School districts also receive reimbursement from the state for a total not exceeding $75 per month per child for transportation and maintenance. A greater minimum may be approved for an isolated elementary or high school child, if it would be more economical to provide transportation than establish a school.

If there are insufficient funds to provide the supplementary aids, the funds will be allotted proportionately to all school districts. **(L)**

The amount to be included in the foundation program of a district for education of children who have a mental, physical or psychological handicap or social maladjustment which impairs learning shall be the amount expended of the current school year by the district for tuition and maintenance of such students who attend school in another district or state, or the amount expended for such education within the district during the current school year, under regulations which have been or may be established by the state board. No reimbursement shall be made duplicating any other category. **(Sec. 21.1-232 Wyo. Stats.) (L)**

Districts are required to make an annual computation of the sum of local resources including 75 percent of the amount of tuition paid to the district during the previous school year, but no district shall include in its annual computation any tuition paid to the district during the previous school year by another district for the education of pupils with mental or physical handicaps. **(Sec. 233 Wyo. Stats.) (L)**

Amounts expended during the current year by the district for the evaluation of programs for handicapped children funded under the foundation program will be reimbursed 100% of the amount expended by the district, however, such reimbursement shall not exceed the larger of $400 or five percent of the cost of the district's programs conducted under Section 231(h) and Section 232(e) of the Wyoming Education Code as determined by multiplying the number of the district's 231(h) classroom units by the current value of the classroom unit and adding to this product the district's actual expenditures under 232(e). **(R)**

Any school district paying tuition for a pupil may, at its discretion, pay all or any part of the board and room required to maintain the pupil in the admitting district and may pay all or part of the room and board of exceptional children placed outside the district. **(Sec. 21.1-70 Wyo. Stats.) (L)**

Only under the following circumstances may state money be made available to districts for personnel working with handicapped children with learning problems: (1) personnel must actually furnish education or diagnostic services to the child. No reimbursement can be made for therapy not required as part of the educational program. (2) Partial reimbursement can be made for auxiliary personnel such as directors, supervisors, nurses, counsellors, secretaries, etc., if these services are an integral part of the education of the handicapped child. (3) More than one entitlement is not allowed. A salary cannot be claimed more than once. **(Op. Att'y. Gen., May 27, 1970)**

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

School districts and community college districts, or any combination of them, may work together and cooperate to provide educational services, including, but not limited to, vocational technical education, adult education, and services for exceptional children. Whenever two or more boards of trustees desire to establish a board of cooperative services, the president of each board calls a meeting of interested boards. At the meeting, if a majority of the members vote in favor they may enter into an agreement to form a board of cooperative services. This agreement will specify, among other things, the length of term of the agreement, the rights, responsibilities, and obligations of each participating district or community college district, the type of services to be rendered, the procedure for the establishment of additional services, and the procedure for the inclusion of additional districts. The agreement will also provide for the amendment and dissolution of the agreement, but no agreement or dissolution will be effective without the consent of each district. All agreements must be submitted to the state board for approval. At a meeting of all participating boards of trustees, they may elect, by secret ballot, a board of cooperative educational services composed of not less than five and no more than nine members. If there are more than nine districts participating, each participating board of trustees, regardless of its number of members, is entitled to cast five votes in the selection of members for the cooperative board. Then each board of trustees, according to the agreement, will have at least one member on the board. The term of office will be consistent with the terms of office on their individual boards. Officers will be elected. Meetings of the board of cooperative services will be called, held, and conducted, as provided by law for the meeting of boards of trustees of school districts. Costs of facilities, equipment, and services provided under the direction of the board will be financed by the partiepating school districts and community college districts on the basis agreed upon by the board. (L)

When it is in the best interests of the child to do so, the district may contract for appropriate educational services for a handicapped child or children with another district or a public, private or religious institution, inside or outside the state of Wyoming, and be reimbursed for amounts thus expended during the current school year subject to the limitations contained in the subsections of this section. (L)

Out of state placements are to be reported to the state board. (R)

In addition to other public school aid, unified school districts will receive state aid using a formula. The assessed valuation of classroom unit in the district will be subtracted from the state average. The difference will be multiplied by the number of classroom units within the district, by nine mills, and by a sum approved by the state board of education. (L)

An amount will be included in the foundation program for the education of children having mental, physical, or psychological handicaps or social maladjustment which impairs learning if they attend school in another district or state. The amount included in the foundation program support for children receiving services in their own district will be the amount expended in the current school year. State reimbursement for children receiving services in a district other than their district for tuition and maintenance will be provided. No reimbursement will be made duplicating any other category. (L)

Districts are required to make an annual computation of the sum of local resources including 75 percent of the amount of tuition paid to the district during the previous school year, but no district may include in its annual computation any tuition paid to the district during the previous school year by another district for the education of pupils with mental or physical handicaps. (L)

In the case of an itinerant teacher and other personnel employed by one district which contracts with other districts for the performance of services by the itinerant teacher for those districts, the employing district must deduct from the reimbursement that it is otherwise entitled to receive amounts received from the other districts pursuant to contract. (L)

Contracts in excess of $100 for the furnishing of contracted services must receive the prior approval of the review panel upon prior application being made to the office of exceptional children on such form as the office may now or hereafter prescribe. This item is separate and distinct from other reimbursable items. The review panel may disallow claimed reimbursement under this section less than $100 where the contract for such services have arbitrarily divided into multiple contracts to avoid the prior approval requirement in this section. (R)

Contracted services reimbursed under this section may be rendered by any public, private, or religious institution provided that the sum set forth in such a contract between a district and a private or religious facility must not exceed the actual cost per pupil in the private or religious institution. (R)

SERVICES

Special services include appropriate diagnosis, evaluation, education or training, and necessary related services. (Sec. 286, Ch. 15, Session Laws of 1969) (L)

Class Size:	NUMBER OF PUPILS	
	Minimum	Maximum
DEAF		
Special Class	10	--
EDUCABLE MENTALLY HANDICAPPED		
Special Class	13	--
TRAINABLE MENTALLY HANDICAPPED		
Special Class	8	--
Special Class (with instructional assistant)	10	--
EMOTIONALLY DISTURBED		
Special Class	10	--
BLIND		
Special Class	10	--

School districts receive state reimbursement not exceeding $75 per month per child for transportation and maintenance. A greater maximum may be approved for the isolated elementary or high school child, if it would be in the best interests of the affected children to provide such transportation or maintenance than to establish a school to serve such pupils. In no case shall sums paid under this section exceed the actual costs incurred by parents or pupils.

Section 67-1301 of the Wyoming Statutes, 1945, is interpreted to allow the Department of Education to use money available to the department for medical examinations of deaf and blind children scheduled to enter out of state schools. Department money may also be used for medical emergency treatment of students in the out of state schools. (Op. Att'y. Gen., February 8, 1954)

Since the summer is not considered part of the school year, special services to exceptional children during the summer can be part of the Foundation Program. (Op. Att'y. Gen., April 8, 1970)

PRIVATE

Placements may be made in private facilities for any handicapped child if it is in the best interest of the child (L)

In-state placements are preferred, but out-of-state placements may be permitted with the approval of the state department of education. (R)

Personnel must be certified or under the supervision of certificated personnel; contracts may be signed with licensed day training facilities which specialize in services for the handicapped. Contracts must have prior approval of the review panel if they exceed $100. (R)

PERSONNEL

TYPE OF CERTIFICATE REQUIRED FOR SPECIAL EDUCATION

Eligibility for Initial Certificate with Endorsement in Special Education (Certificate No. 1)

bachelor's degree in special education or bachelor's degree including 20 (secondary) or 23 (elementary hours in education foundation, curriculum development and student teaching; general education (40) special education (15)

FACILITIES

Statutes contain no specific provisions for the handicapped in this area.